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International Commercial Policies

WITH SPECIAL REFERENCE TO THE

United States

A Text Book

BY

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To
ANDREW D. WHITE

association with whom during
nearly four years of official life
at Berlin has been a permanent
source of inspiration to the author.

PREFACE

An effort has been made in the present volume to bring together in a form available for students of economics as, well as for general readers, a systematic treatment of the politics of international commerce. Such an effort is beset with many difficulties. In the first place no method of treatment is entirely free from all objections. Again while there is an abundance of literature on some of the topics considered in the following pages, the literature is very meagre as regards other topics. As to general works no English books cover the entire field of international commercial politics although some German writers—notably Roscher, Cohn, Lexis, van der Borght and Grunzel—have treated the subject in a scholarly way. The author wishes to make special acknowledgments to the last named author for frequent use which he has made of his excellent work, *System der Handelspolitik*. For services rendered he wishes also to express his appreciation to the officers and attendants of the libraries of Congress, University of Illinois, University of Wisconsin and Wisconsin Historical Society and to his colleagues, professors N. A. Weston, M. H. Robinson and J. W. Garner. Professors Weston and Robinson read the manuscript and their criticisms were invaluable. Professor Garner furnished valuable assistance in the

PREFACE

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G. M. F.

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**INTERNATIONAL
COMMERCIAL POLICIES**

CHAPTER I.

INTRODUCTION

1. General Statement.—There run through the writings of early authors on economic subjects two prominent ideas regarding commerce, one relating to its value and the other to its content. As regards the former Montesquieu, the immortal writer of the "Spirit of Laws," has tersely said: "the effect of commerce is riches; the consequence of riches, luxury; and that of luxury, the perfection of arts." The emphasis laid on not only the material but also the cultural value of commerce by early writers—a characteristic almost lacking in economic literature of the present day—is not difficult to understand. Trade among early civilized peoples, especially among the Greeks and, to a greater extent, the Romans was largely in the hands of foreigners and was essentially piratical in character. These conditions stamped trade as an unworthy occupation and perpetuated traditions and prejudices which have taken centuries to eradicate. The civilized world has, however, been gradually converted and but few writers of the present time think it worth while to demonstrate that the material advantages of trade are mutual and that commercial intercourse is civilizing in its effects.

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As regards the second characteristic, the content of commerce, it may be stated that the ancients did not discriminate between commerce in its restricted and in its general sense; that is, they did not differentiate commerce from navigation, transportation and communication, money and banking, and even, in some instances, from general industry or from political economy. They used the term in much the same sense in which in modern phraseology we speak of commercial education and schools of commerce, meaning thereby much more than mere studies of trade or even of general economics. The complex character of modern industrial life has led to a high degree of specialization not only in art but also in science. Such subjects as transportation and communication, or money and banking, have become so important and also so complex that, although of course recognized as perhaps the most important instruments of commerce, they are treated as special subjects in themselves rather than as synonymous with commerce. It should also be noted in this connection that there is a legal conception of commerce which may be, and in fact usually is, different from the economic use of the term. While economically considered the meaning of commerce tends to become more and more restricted, legally considered the opposite tendency is observable at least so far as the federal government of the United States is concerned, since the interpretation given by the Supreme Court to the meaning of commerce as used in the Constitution is much more extensive now than formerly. This

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discussion naturally brings us to a consideration of the meaning of commerce and its relation to economics and industry. In the treatment of the subject in the present text the term commerce is used in its restricted rather than in its broad meaning.

2. Meaning of Commerce.—Political economy, or economics, deals with those activities of man which are directed toward getting a living. It has often been defined as the science of wealth. Wealth in the economic sense consists of those goods and services which are useful to man, which possess utilities. These may be classified into elementary or material, form, time, place and quantity utilities. Both industry and commerce are important parts of the economic life of society. The former is primarily concerned with the creation of form utilities and the latter with those of time, place and quantity. The agent in industry is the manufacturer; in commerce, the merchant. The separation between the two is never complete either in theory or in practice. Theoretically, many modern economists treat commerce as merely a part of economic production on the ground that the latter is incomplete until goods which have been manufactured or produced are put into the hands of final consumers. In practice there are many occupations in which the manufacturer and distributor or merchant are united. A simple illustration is that of the baker who not only makes the bread, but often offers it for sale to final consumers. While the development of the division of labor has tended toward a differentiation of industry and commerce,

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the latest phase of industrial consolidation has led in many instances to a closer union. Giant concerns like the United States Steel Corporation and the Standard Oil Company are both industrial and commercial institutions. They are engaged not only in the creation of form, but also of place, time and quantity utilities.

Commerce is defined in the dictionary as "the exchange or buying and selling of commodities, especially the exchange of merchandise on a large scale." It is characterized as trade in its most extended form. The terms "commerce" and "trade" mean very much the same thing, although the former often refers to commercial dealings between nations, while the latter is more often applied to internal mercantile intercourse. Thus we speak, on the one hand, of the foreign commerce or commercial relations of the United States and, on the other hand, of the wholesale or retail trade of individual merchants.

When goods have been manufactured they must be distributed to those places where consumers are to be found, held until they are wanted and furnished in desired quantities. That branch of economics which thus serves as a bridge between initial producers and final consumers by creating the necessary place, time and quantity utilities, is commerce.

3. Materials of Commerce.—The materials of commerce are variously designated as goods, commodities, merchandise, wares or products. While these terms are often used indiscriminately, their sig-

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nificance is not always the same. Owing to the difference in usage in different countries or even in different parts of the same country, fixed definitions are difficult to frame. The term *goods* usually means transferable articles of portable or personal property such as are intended for sale or might realize a money value if sold. Thus we speak of dry-goods, fancy goods, high-priced goods, the goods of the merchant and the like. A *commodity* is anything movable that is a subject of trade or of acquisition. Goods and commodities are nearly synonymous. The former term is somewhat more comprehensive than the latter which usually, but not always, refers to articles of necessity. *Merchandise* is the generic term for all portable articles of trade considered as such in the aggregate. The American trade statistics, for instance, refer to the exportation of articles of domestic merchandise, meaning thereby the sum total of all articles of domestic production exported to other countries. The term *ware* or *wares* designates the sum of articles of a particular kind or class. It is often used in composition as in hardware, glassware or tinware. Webster defines a *product* as anything that is produced, whether as the result of generation, growth, labor or thought, or by the operation of involuntary causes. We speak of the products of the season or of the farm, the products of manufactures, the products of the brain, etc.

4. **Classification of Commerce.**—Trade is either *wholesale* or *retail*. The latter may be defined as sales to the final consumer and the former as mer-

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cantile transactions among all classes except the final consumer. Usually, but not always, wholesale trade is in larger values than retail trade. Commerce is also divided into *domestic trade*, carried on entirely within the boundaries of a particular country, and *foreign or international trade* between individuals of different nations. The present work has to do primarily with foreign commerce which is divided into various classes. *Import trade* comprises dealings in those goods brought into a country from foreign localities; *export trade* refers to shipments sent out of a country; and *transit trade* is traffic passing through third countries en route from one country to another. Trade passing between two countries via third countries is characterized as *indirect trade* in contradistinction to *direct trade*, or trade passing directly between two countries. Foreign commerce is also classified as *land trade* and *sea trade*. Where a country employs home capital and labor in carrying on its foreign trade its commerce is called *active*, while on the other hand, if its foreign trade is carried on by foreign merchants its trade is characterized as *passive*. The foreign commerce of all countries, taken in its entirety, is called *world commerce*.

5. Politics of Commerce.—*Political science* is the science of government; *politics* is the art of governing. The former deals with principles, while the latter has to do with practice, and finds formal expression in law. While good government is a necessity for commercial development and nearly all governmental regulations, such as those

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relating to education, private property, revenue or communication, influence commerce more or less, only those affecting it directly and consciously belong to the sphere of commercial politics. *Commercial politics*, therefore, comprises the laws, institutions and executive methods by means of which the sovereign will controls commerce. While the activities of the government are generally directed toward increasing commerce, this is not always the case. In fact, many laws such as protective tariff regulations often aim to discourage commerce; others, especially those of a police, moral or sanitary character, as, for example, laws relating to the sale of fire arms, intoxicating liquors or adulterated foods are often prohibitory. The aim of all laws regulating commerce should be to benefit society at large. There is no other justification for law, whether it be to regulate commerce or any other activity.

6. Political Control of Commerce.—In the Middle Ages the political control of commerce was vested theoretically in the central government represented by the king. Owing, however, to the lack of effective centralization the power to regulate commerce came more and more under the control of local quasi-public corporations or guilds. This control became nearly absolute and extended over both domestic and foreign commerce. In strongly centralized governments, such as those of modern England, France or Italy, the control of commerce is largely concentrated in the hands of the central government; but in federal states, like the United States

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or the German Empire, where there is a division of power between central and local authority, foreign commerce is largely under the control of the former while domestic commerce comes more naturally under the purview of the latter. The situation in the United States in this particular is interesting. Although the American colonies were constantly interfered with by the mother country, the political troubles of England at home and on the Continent, coupled with the dangers of navigating the broad Atlantic which lay between her and her colonists, resulted in the latter having, in a large measure, their own way in matters of government. Their constant struggle, however, for both economic and political existence developed in the English residents of the New World strong sentiments of self-government. When separation from the mother country came, the several states retained control over commerce, only the shadow of power being delegated to the so-called central government operating under the Articles of Confederation. It was the lack of effective central control over commerce which was one of the most decisive factors in giving birth to the Constitution. By this instrument Congress was given the power "to regulate commerce with foreign nations and among the several states and with the Indians." In other words, the federal government of the United States has control over foreign and interstate commerce, while control over strictly domestic commerce is retained by the several states.

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7. General Character of Ancient Commerce.—Early trading peoples were organized on a municipal or local basis as is sufficiently suggested by the names of Tyre, Carthage, Athens, Rhodes and, in more recent time, Venice and many other cities of Western Europe. Later city-leagues, such as Hansa, were organized on a quasi-national basis for purposes of commercial protection and expansion. Finally national life began with the dawn of modern history. Early civilization usually lacked the three essentials for the development of commerce on a large scale—means of transportation and communication, security and freedom of labor and of exchange. The absence of transportation and communication facilities caused the materials of commerce to be confined largely to objects of great value and small bulk. As regards freedom of labor and exchange it may be said that the political institutions of the ancient world were utterly neglectful of the liberty, industry and property of the masses. Insecurity caused commerce to be carried on by armed forces in the form of caravans on the land and the convoy on the sea. Ancient commerce was largely trade of civilized with less civilized or barbarous peoples. The latter distrusted and feared the former, and warfare ending in annihilation, slavery or a state of colonial dependence was generally the fate of the less civilized combatant. This distrust of the foreigner was a characteristic of the ancient world and was strengthened by the fact that much of the trade in those times was, as already stated, carried on by non-residents and partook more or

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less of the nature of plunder and piracy. Commerce in early times was, however, favored by one mollifying factor—the ancient right of hospitality which extended a protecting arm to the stranger, and was about the only form of personal contact among foreigners. Its origin is uncertain, but probably is traceable to the Phoenicians.

8. Development of Ancient Commerce.—The earliest civilizations in historic times were those centering about the great river valleys of the Nile, the Tigris, and Euphrates, and perhaps also about the river valleys of Southern and South Eastern Asia. The desert between Egypt on the West and the civilized nations to the East was pierced by the Arabs who were the great land merchants of antiquity. They were organized in caravans and were under no other form of government than the regulations which the members of the caravan imposed upon themselves. The Phoenicians were the greatest commercial people of antiquity. Centrally located on the eastern coast of the Mediterranean between the raw producing countries to the West and the manufacturing producing countries to the East, they developed an enormous land and sea trade. The former was carried on to the eastward by means of caravans with regularly established resting and trading stations. Their sea trade extended along the littorals of the Mediterranean, Black and Red Seas as well as along the coasts of the Atlantic and Indian oceans, and was carried on by convoys—armed ships of war accompanying merchant vessels which were likewise armed for

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protection. Trading posts were established along the coasts, some of which, such as Carthage, became important cities. They were controlled for the most part by officers sent out by the home government. The entire commerce of Phoenicia was highly organized by and centralized in the government of the Phoenician cities of Tyre and Sidon, and these cities became not only great commercial but also great industrial centres.

Both the Greeks and the Romans had a strong antipathy against commerce. The former largely overcame this prejudice, but the latter never did. Early Greek commerce was largely carried on by foreigners, especially by the Phoenicians, but as the Greeks developed their trade by establishing colonies along the shores of neighboring seas, they became more and more actively engaged in commerce. The Greeks inherited the general commercial policy of the Phoenicians, but they hardly improved upon it because while Phoenician commerce was highly centralized for many centuries in one or at most two cities, Greek commerce was politically dominated at different intervals by different Greek cities. While Roman colonial policy was one of ruthless exploitation, her general commercial policy was largely passive. She established conditions of peace and security upon the sea by suppressing piracy throughout the Mediterranean, and upon the land by means of her roads and her superb military system; but her commerce—the supplying of her large population with articles of

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necessity and luxury—was largely in the hands of foreigners, especially the Greeks.

9. Commercial Policy of the Middle Ages.—

No national commercial policy was evolved in antiquity or during the Middle Ages. In both periods the policy, as has been said, was essentially municipal in character. The Mediaeval city policy, nevertheless, showed some advancement over the policy of the earlier period, both in domestic affairs centering in the market regulations and in foreign affairs, relating especially to fairs, factories, consuls, and, during the latter part of the Middle Ages, to the organization of city leagues. Commercial centres were much more numerous in the Middle Ages than in antiquity and developed not only along the coast as in the earlier period, but at numerous inland points. The city leagues were quasi-national in character and may be regarded as forerunners of the modern state or nation. The general character of Mediaeval commercial politics is reflected in various governmental regulations more or less common in Western Europe. These regulations related to both foreign and domestic trade. An important institution affecting primarily the former was the factory located in foreign countries. This was usually a single warehouse at first, but often developed to include whole quarters in a foreign city. In these factories home merchants dwelt, carried on trade and administered law through officers, known as consuls, selected sometimes by themselves, but more often by the home government. The rights which these merchants enjoyed

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were usually based upon concessions granted by the sovereign in whose territory the factory was located. At home all matters relating to foreign trade were most minutely regulated, such as the time of departure of vessels, the order en route, the object of the trip, the return voyage, the armament, etc. Every effort was made to keep trade as much as possible in the hands of native citizens. For example, the Venetians forbade the Germans from engaging in trade with the East by way of Venice, and the citizens of Lübeck strove to keep the Baltic trade from the Dutch.

In the more domestic commercial politics the spirit of exclusiveness also prevailed. Foreigners were mistrusted and partnerships with them were forbidden. Foreign visitors were restricted in many ways in their commercial dealings with native citizens. Many occupations were closed to them; the length of their sojourn and the number of their visits were limited; they could not pass a town without exposing their wares for sale and paying the required market dues. The wants of the consumer took precedence over those of the producer or merchant. At the weekly markets consumers could supply their needs before the baker or merchant was allowed to make purchases. There was a community interest in the supplies of necessities and often their exportation was prohibited. The trade of neighboring peasants was restricted to the home city, and laws regulating price, weight, measure and quality were common. This restrictive municipal policy was very much relaxed at the

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great fairs which were held periodically in various parts of Europe.

10. Development of Mediaeval Commerce.—After the Roman Empire of the West came to an end, nominally in 476 A. D., and all Western Europe was overrun by barbarian hordes, commerce was in a more or less chaotic state for the next five hundred years. Such trade as remained was centered in the Mediterranean countries and was largely in the hands of the Greeks and, after the Mohammedan conquests, of the Arabs. During this period the growth of feudalism and the rise of towns both fostered decentralization, while the only centralizing force was in the Church. The most important factor in causing a reawakening of commerce was the Crusades. Toward the close of the tenth century the Turks overran Western Asia and captured Jerusalem. Fired by religious fanaticism, by the spirit of adventure and by the fear lest the remnants of trade between the East and the West would be destroyed, the peoples of Western Europe undertook a series of Crusades against the "Infidels," covering a period of about two hundred years and involving the transportation of millions of human beings toward the East. The effects of the Crusades were far-reaching. Politically, they broke the backbone of feudalism by attracting to the Orient large numbers of the nobility, many of whom failed to come back or who returned bankrupt. This great movement, therefore, increased the power of the Crown and of the burgher class in the cities. Contact with the more advanced By-

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zantine and Arabic culture for two hundred years taught Western Europe many lessons in civilization. It gave an enormous impetus to commerce and industry not only by the direct demands it made for means of transportation and for general equipment in the way of food, clothing and munitions of war, but also indirectly by increasing the wants of the people for Eastern commodities. To meet these new requirements old commercial centres grew into new life and many new cities sprang up in Western Europe. Flanders became the great industrial centre of Northwestern Europe, while the cities of Northern Italy, especially Venice, centrally situated along the new lines of trade between the East and West, became rich and powerful. It was during this period also that the great city leagues were formed, the most important of which was Hansa. This was originally a league formed between Hamburg and Lübeck in the early part of the thirteenth century for the purpose of protecting the trade between these two centres. It grew very rapidly and soon numbered nearly one hundred cities in Northern Europe. Its government was a confederacy with its capital at Lübeck. Organized at first as a purely protective commercial association, it soon assumed important political prerogatives. It possessed a powerful fleet and an army and these, together with its factories at London, Bruges, Bergen, Novgorod and at other places, where special trading privileges were enjoyed, enabled it to protect effectively its own interests and to dominate commercial and industrial activity

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in the North of Europe as Venice did in the South. In spite of its monopolistic tendencies it did much for the civilization of Western Europe. The security which it gave to commerce and industry, not only among its own members but among foreigners with whom it traded, did much to increase the wealth, standard of living and art impulses of Europe and to accustom its inhabitants to the principles of orderly government, thereby paving the way for constitutional government. With the growth of effective national governments in the fifteenth and sixteenth centuries, the services of the city leagues became unnecessary and they did not long outlive their usefulness.

BIBLIOGRAPHY

Note. (1) For a general bibliography on the subject of international commercial politics; (2) for an explanation of the arrangement of the special bibliographies at the close of each chapter; (3) for an interpretation of all abbreviations in the special bibliographies, consult the General Bibliography at the end of the book. Books marked (*) are regarded as specially desirable and those marked (**) as indispensable.

C. "Commerce" in (a) Dictionaries and Encyclopaedias (*Am. and Eng. Encyc. Law, Bouvier's Law Dict., Conrad's Handw. der Staatsw., Elster's Wörterb. der Volksw., *Encyc. Brit., Guyot et Raffalovich Dict. du Com., Harper's Dict., Larned's Hist. for Ready Ref., Lalor's Cyclop. and Palg. Dict.) (b) *Economics, texts on (Bullock, Ely, Fawcett, Fetter, Gide, Mill, Nys, Ricardo, Seager, Seligman, Smith, Walker, et al.). (c) English Indus. Histories (Ashley, Cheyney, Cunningham, Gibbins, Price, Rogers). (d) Writings of various authors (Aristotle, Cicero, Hume, Macchiavelli, **Montesquieu, Bk. XX,

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Plato). For additional writers on Commerce consult Cossa's *Introd.* and *Ingram's *Hist. Pol. Econ.*). (c) Poole's Index and other indexes to periodical literature.

D. Adams Com. Geog., Adam's *Relation of State to Indus. Action*, Beers, *Gesch. des Welth.*, Bücher's *Indus. Evol.*, van der Borcht, *Handel u. Handelsp.*, Ch. I-II, Chisholm's Com. Geog., Clow's *Introd.*, Cohn's *Handels.*, Cunningham's *Western Civil.*, *Day's *Hist. of Com.*, Gannett, Garrison and Houston's Com. Geog., Ehrenberg's *Der Handel and Zeitalt. d. Függer*, Farrer's *State*, Gibbin's *Hist. of Com.*, Grünzel's *Handelsp.*, pp. 1-12, Hobson's *Inter. Trade*, Prentice and Egan, Com. Clause, Pignoneau's *Hist. du Com.*, Roscher's *Handel*, Pl Ch. I., Seeley's *Exp. of Eng.*, Speck's *Handslsg. der Alt.*, Stickney's *State Control*, Trotter's *Geog. of Com.*, Webster's *Hist. of Com.*

SUGGESTIVE TOPICS AND QUESTIONS

1. What is the meaning of "Commerce" as used in the American Constitution (Art "Commerce" in Am. and Eng. Encyc. Law; also Bouvier's Law Dict., Prentice and Egan, Com. Clause.) Make careful abstract of one of the decisions of the Supreme Court on this point.

2. Is the division of labor the cause of commerce? (Bücher *Indus. Evol.*, 303 et seq.).

3. Is there any way of estimating the service of commerce in preparing a modern dinner? (*Outlook* Mar. 13th, 1897: quoted in Clow's *Introd.*, pp. 193-194).

4. Define "ancient right of hospitality" (Cohn's *Handels*, p. 28; Bücher *Indus. Evol.*, p. 62).

5. Give examples of laws aimed to discourage trade in certain articles; examples of trade prohibitions. Can you give examples of one state encouraging the sale of an article which another state prohibits the buying or selling of?

6. What power over commerce did the central government of the United States have prior to 1789? (Articles of Confederation.)

7. How does war affect commerce? Do commercial

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nations generally oppose war? (Seeley's *Exp. of Eng.*, Ch. VI., *Scrib. M.*, Mar. '02).

8. What is the position of the United States as a peace maker? (*World's Work*, May, 1902).

9. Compare Anglo-Saxon and German attitude as regards State regulation (Adam's *Relation of State to Indus. Action*).

10. Give examples to show how commerce is influenced by climate, soil, navigable rivers, mountains, coast line, religion, government (Consult any text on *Com. Geog.*; also *Montesquieu Bk. xx*).

11. May the same trade be at one time domestic and at another time foreign? Examples.

12. How does the domestic trade of the United States compare in value with its foreign trade? (Adam's *Com. Geog.*, p. 163; *Gide*, p. 346, *Seager*, p. 368.)

13. On an average how many times will an article be exchanged on its way from the producer to the final consumer? (*Walker's Discussion*, Vol. II., p. 8). On this basis what would be the ratio between the value of American domestic and foreign commerce?

14. Homer relates in the *Odyssey* that Ulysses became indignant, when skirting the coast of Phoenicia, at being taken for a merchant by the Phoenicians who wished to trade with him. What does this show as to the probable attitude of the Greeks and Phoenicians toward commerce?

15. Is it strictly correct to speak of commerce between nations? What do we really mean by the phrase?

16. What did the former German Chancellor von Caprivi mean when he said that Germany had reached an industrial position where she must either export men or goods? What does this show as to the relative value of German domestic and foreign trade?

CHAPTER II.

DEVELOPMENT OF MODERN COMMERCIAL POLITICS: THE MERCANTILE SYSTEM

II. General Character of the Early Modern Period.—There are several marked characteristics which distinguish European civilization of the past four hundred years from that of the preceding thousand years. The power and wealth of the commercial and industrial classes had been increased, largely as a result of the Crusades. Wealth had developed a leisure class and wealth and leisure had furnished the proper basis for the growth of the finer tastes. The literary phase of this general movement found expression in the so-called Renaissance or revival of the almost forgotten literary classics of the Graeco-Roman world. Dante, Petrarch, Colet, Erasmus and More figure prominently in this connection. Artistically the movement expressed itself in the building of magnificent cathedrals, in sculpture and in painting. A galaxy of great names, such as Michelangelo, Leonardo da Vinci, Raphael, Titian and Rembrandt belongs to this phase of the movement. The religious side of this development showed itself in the Protestant Reformation with Martin Luther as the central figure, while the political expression was reflected in the growth of nationality. As has been stated,

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the Crusades hastened the downfall of feudalism by enlisting the services of the feudal barons many of whom lost their lives in the expeditions or returned with empty purses. Their power at first largely monopolized by the rich burghers of the cities was gradually taken over by the central governments. States like Spain, France and England became nations in the modern sense. Finally the commercial phase was characterized by three far-reaching events—the discovery of America by Columbus (1492), the finding of an all-water route to the Indies via the Cape of Good Hope by Vasco da Gama (1498) and the circumnavigation of the globe by Magellan and his followers (1519-1522). These discoveries changed the great trade routes between the East and the West, which the Turks by their conquests culminating in the capture of Constantinople (1453) had greatly interfered with, and shifted the great commercial centres of Europe from the Mediterranean to the Atlantic shores. They brought into general use many new products such as tobacco, potatoes and Indian corn, and increased enormously the supply of the precious metals. They also cheapened transportation by substituting ocean trade for commerce which was largely over-land or confined to inland seas. Finally they gave added importance to the industrial and commercial classes and led to two hundred years of warfare for commercial supremacy. The entire general movement was powerfully aided by three important inventions—those of gunpowder, the printing press and the mariner's compass.

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12. General Characteristics of Mercantilism.—
The changes which characterize the beginnings of modern history brought about important modifications in economic thought and action. Mercantilism is the term used to designate this general movement. It represented an effort to theorize and legislate along national rather than local or municipal lines. Both theoretically and practically it was intensively protective and derived much inspiration from the city economic policy of the Middle Ages. While mercantilism possessed no universal theorems or regulations, it did have several more or less general characteristics, one of the most prominent of which was its over-estimation of the importance of money. This is easy to understand. The precious metals had been drained off to the East during preceding centuries in payment for Eastern articles of trade, especially since the period of the Crusades. This was contemporaneous with an enormously growing demand for money payments for large standing armies, expensive courts and salaried officials. The practical economic problem was how to meet these increasing expenses. Not to meet them meant a loss of sovereignty. Under such conditions and at a time when the principles of political economy were poorly understood it was natural for economic writers and statesmen to reason that the wealth of a country was largely in proportion to the amount of the precious metals in its possession. Fortunate was the country possessing gold and silver mines, but as none of the more advanced countries of Western Europe were thus favored

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foreign trade must be resorted to in order to obtain the necessary supplies. This led to another important characteristic of mercantilism—an over-estimation of the value of foreign as compared with the value of domestic commerce.

13. First and Second Phases of Mercantilism.—When nations succeeded in obtaining the precious metals the problem was how to keep them from leaving the country. This led to strenuous governmental activity. Cossa, the Italian economist, distinguishes three phases of mercantilism, all of them being characterized by governmental efforts to maintain or increase the nation's supply of gold and silver. The characteristics of the first and earliest phase of mercantilism were prohibition of specie exportation, debasement of coinage and determination by law of the course of exchange. Many nations resorted to such measures, especially Spain and Portugal, but their inutility was early demonstrated. The second phase of the Mercantile System, the so-called "Balance of Bargains," found its fullest play in England. This scheme "was in effect a complex mass of provisions minutely regulating individual contracts between English and foreign traders with a view to making them a source of increase to the volume of coin circulating at home. Of course the usual prohibition of specie exports was a part of the scheme which further regulated the proceedings of English merchants selling at 'staple towns' such as Bruges, Antwerp and Calais in particular. They were bound by law to bring back in cash from these places, which

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as staple towns enjoyed a monopoly of the export trade in manufactured goods, a fixed proportion of the prices paid them by aliens. Furthermore, there were the 'statutes of employment' which required alien traders selling goods in England to invest the money in English produce. To guarantee the exact observance of these minute prescriptions, traders were subjected to a special supervision by officers of finance, called Customers, upon whom devolved the collection of tariff dues in staple towns. This collection involved intervention on the part of still another public officer, called the Royal Exchanger, who exchanged foreign coins intrusted to the Customers for coin of the English realm."

14. Third Phase of Mercantilism (The Balance of Trade.)—The practical application of the principles held by the earlier Mercantilists proved a hindrance to trade. Modifications were advocated especially by English writers who asserted that it was not the individual but the aggregate or national balance which was the important thing. "Only one thing really enriches the state and that is such a shaping of complex commercial transactions as shall secure that the value of all imports shall be less than that of all exports." In this case there would be a balance payable in money. Such a balance became known as a "favorable balance of trade," while on the other hand, if the total value of a country's imports exceeded the total value of its exports so that a nation must pay a money balance, such a condition was designated an "unfavorable balance of trade." The task of the law-

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making power was to create a "favorable balance of trade" and in the carrying out of this policy certain general tenets were more or less adhered to. In the first place it was held that foreign commerce was most profitable when exchange of domestic and foreign products was by means of native ships and sailors. The most noteworthy legislation in this respect was the English Navigation acts of the seventeenth century. Domestic manufactures were especially favored and their importation as well as the exportation of raw materials were often discouraged or even prohibited, while on the other hand their exportation and the importation of raw materials were facilitated. The principal reasons which led the Mercantilists to regard domestic manufactures with such favor were two-fold—exports of manufactures represented proportionately greater values than the exports of raw materials, and therefore tended to create a favorable balance of trade; they also gave greater employment to labor and made a denser population possible—a condition deemed very desirable by the Mercantilists. Holding, as they did, the view that the advantages of trade were largely one-sided and accrued especially to those nations which could sell more than they bought, it was natural that the Mercantilists should strive to exercise political power over other countries in order to control more effectively the course of their trade.

This struggle led to a colonial policy of exploitation—based upon the principle that the purpose of colonies was to enrich the mother land, especially

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as suppliers of raw materials and as purchasers of manufactured products. While mercantilism as a foreign policy was especially emphasized it was also a domestic policy. In its latter capacity it had to do with the creation and maintenance of effective peace conditions which had been impossible under the feudal system, with the supplanting of city monopolies by state monopolies, with the abolition or diminution of inland tolls, taxes and other local restrictions and in general with all those regulations calculated to unify on a national rather than on a municipal basis all internal economic matters.

15. Criticism of Mercantilism.—One of the best brief criticisms of mercantilism is given by Cossa. "Theoretically viewed," he says, "mercantilism, in its doctrines about the balance of trade and the functions of customs duties, is the first regular attempt at explaining the phenomena of the circulation of wealth, and being the first it was not the best, but necessarily had its imperfections. Production was not clearly understood in those days, because capital had never been defined and was still confused with money, money being the most obvious and permanent shape which accumulated wealth assumed. Undoubtedly the mercantilists grossly exaggerated the importance of money, not considering that its function was purely instrumental; not all of them grasped the rudimentary fact that without selling there could be no buying; many of them were at pains to invent means which accomplished just what they never dreamed of. Money they considered to be merchandise, but a

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merchandise *sui generis*, and here they were right. They were also right in deploring the evils of poverty, but their remedy was ill considered, since it is possible to have too much even of such a good thing as money. Its excessive abundance raises prices and stops exportation. They could appreciate the value of money in mass, but not of money in movement. They could not see that it was just as important to have it circulate freely and quickly as to have much of it. They considered that the balance of trade and the balance of debits and credits were convertible; and it therefore never dawned upon them that a nation might go on for a long time importing goods of greater value than those it exported without the least danger of exhausting its store of the precious metals in the process. Their impenetrability in this respect resulted from their not being aware that a large proportion of payments is made, not in money but in merchandise, and from their ignoring the material circumstance that an excess in value of imports over exports is often covered by drafts upon foreign ports for amounts there due to the importing country. Again, the Mercantilists were totally at sea with their chimerical notion that a balance favorable to a given country could be maintained continuously at every given moment. Furthermore, they never made room in their minds for the least comprehension of what a gross self-deception lurked in the so-called principle of reciprocity upon which commercial treaties were so constantly based. Their mental processes could not cope with the fact

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that a country which refuses admission to foreign goods, on the plea that the foreigner shuts out its own, occupies the ridiculous position of a man who declines something that he needs because his neighbors are treating themselves in the same shabby manner.

"The Mercantilists did not perceive that nations as well as individuals grow rich in one way, and one way only,—by producing more than they consume,—chiefly because external commerce and manufactures, being of course the chief source of wealth, engrossed their whole attention. Hence their doctrine that exports must exceed imports, which involved the absurd identification of the interests of the nation at large with those of one class only, the trading class. This monstrous error bore its fatal fruit in rivalries and wars between England, France and Holland, each belaboring the other two with tariff assaults and reprisals, each bent on economic primacy."

A proper understanding of the development of commerce during the sixteenth, seventeenth and eighteenth centuries is impossible without an intelligent appreciation of the general principles of mercantilism. During this period these principles guided the economic policy of Western European countries and each in turn played an important rôle in the contest for commercial supremacy. First Portugal, then Spain, followed by the Netherlands, France and England.

16. Portugal and Spain.—Portuguese were the first people in Modern Europe to make long voyages

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and important discoveries, which were begun in the early part of the fifteenth century under Henry the Navigator. India was reached by Vasca da Gama in 1498, and in 1500 the Portuguese took possession of Brazil. Her power was overshadowed by Spain which became a united kingdom in the latter part of the fifteenth century and under Charles V., by means of successful wars, brilliant discoveries and fortunate marriages, her empire comprised most of western continental Europe excepting France and also embraced a large part of the New World and important colonies in the East. For a period of about half a century Spain enjoyed a great industrial awakening, but in spite of a strenuous application of the principles characteristic of the earlier stages of mercantilism large quantities of her precious metals left the country. The abundance of these metals had caused a depreciation in their value as reflected in the rise of prices and large quantities of manufactured goods were imported. The search for gold in the New World had developed the spirit of adventure and had crippled the industrial life of the people. The successful revolt of the Netherlands and unfortunate wars with England and France deprived her of many of her important possessions and left her loaded with debts. Spain ceased playing a leading rôle in European commercial politics after the middle of the seventeenth century.

17. The Netherlands.—The inhabitants of the Netherlands—the countries now known as Belgium and Holland—had been very industrious people

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for centuries. Flanders (Modern Belgium and the Northeastern part of France) furnished the world with many manufactures, especially woollen textiles, and her workmen taught Western Europe many industrial arts. Bruges was for a long time the leading city, but later Antwerp became the great emporium for Northern Europe. War against Philip II., who attempted to wipe out Protestantism in the Netherlands, was disastrous to Antwerp. Her most energetic burghers emigrated and settled largely in the northern provinces (Holland). After Spain had lost her naval supremacy to England by the destruction of the Spanish Armada (1588), Holland attempted to develop her East India trade by sending out several expeditions. Smaller companies were united into the Dutch East India Company in 1602 with a state charter granting it a complete monopoly of East Indian commerce. In a few years many of the best possessions of the Portuguese and English in the East came under its control. In 1621 the Dutch West India Company was chartered to carry on trade along the west coast of Africa and in the New World. Its most important settlement was at New Amsterdam (now New York). The success of this company was not marked. The independence of the Netherlands was recognized by the Peace of Westphalia in 1648. At that time she was the first commercial power of Europe with her trade centered at Amsterdam. The Dutch did not long maintain their supremacy. Much of their trade was diverted to English ships by the English navigation acts and by their naval

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defeat at the hands of the English in 1672. The Dutch also suffered in warfare with other powers and from internal dissensions.

18. France.—The great discoveries were at first unfavorable to the growth of French commerce because, by changing the routes of trade, they cut off much of her overland traffic between Northern and Southern Europe. The great French fairs and the port of Marseilles were most disadvantageously affected. The great wars during the sixteenth century also handicapped the growth of French commerce. During the one hundred years following the latter part of the sixteenth century, however, France made great industrial and commercial strides largely because of the energy of her great statesmen—Sully, Richelieu, Mazarin, and especially Colbert. This is the classic period of mercantilism and the name of Colbert has been so prominently associated with this system that many have given it the name of Colbertism. Mercantilism as a domestic policy was especially prominent in the measures enacted by this great statesman. The immigration of skilled craftsmen and the formation of new industries were encouraged. The aim was industrial self-sufficiency and this was in a measure realized by the removal of inland tolls and the enactment of a national customs tariff. Taxation was lowered and equalized, canals and bridges built, the navy subsidized and the transit trade encouraged. Commercial companies were organized after the plan of the English and Dutch companies and colonies were established in all parts

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of the world, especially in North America and in India. At the time of the death of Colbert (1683) France was the foremost commercial and political power in Europe. Then followed several decades of expensive wars, costly courts, unjust taxation and religious intolerance under Louis XIV. from which France never recovered. In her struggle with the English for commercial supremacy during the eighteenth century she lost most of her colonies, including Canada, which was surrendered to England at the close of the Seven Years (French and Indian) war in 1763.

19. England.— England's industrial condition was primitive until about the fifteenth century. She exported raw materials, especially wool and minerals, and imported manufactures. Her commerce and navigation were largely controlled by foreigners, especially Jewish, Dutch and Hanseatic merchants. Her industrial development began to be more active in the fifteenth century. She engaged energetically in foreign trade, made important maritime discoveries and settlements in both hemispheres and organized important trading companies, the most famous being the East India Company (1600), after which Dutch, French and other trading companies were largely modelled. England's industrial and commercial progress was checked during the first half of the seventeenth century by the civil and religious wars under the Stuarts, but during the century following her commercial and industrial expansion was continuous. Mercantilism held full sway and found expression

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in laws encouraging the growth of home manufactures by means of customs duties or import prohibitions and in inducements offered skilled workmen to settle in England. The principal aim of England's foreign commercial policy was to make her merchant marine the carrying power of the world. The most important legislation which aimed to realize this is found in the navigation acts passed in the middle of the seventeenth century already referred to. The international commercial rivalry culminating in the latter part of the eighteenth century resulted in England's becoming the virtual dictator on the high seas and the possessor of important colonies in all parts of the world. Her vast colonial empire, founded upon the mercantile idea that the purpose of colonies was to enrich the mother country with little regard to the interests of the colonies, was more or less shattered when subjected to the changed economic conditions and political ideals at the close of the eighteenth century.

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SUGGESTIVE TOPICS AND QUESTIONS

1. How did the invention of gunpowder, the compass and the printing press influence commercial development?

2. What other products besides Indian corn, tobacco and potatoes came into new or more general use after the great discoveries?

3. Make an outline of the most characteristic mercantile legislation during the Sixteenth, Seventeenth and Eighteenth centuries in any one of the following countries: Portugal, Spain, Netherlands, France, Germany, England. (Consult general and special political and industrial histories).

4. Can you recall the names of any early American explorers who searched primarily for gold? Had their desire for gold any connection with mercantilism?

5. What was the Edict of Nantes and what were the economic effects of its revocation in 1685?

6. Why is religious intolerance unfavorable to the development of commerce and industry? Give examples.

7. Can you give any illustrations to show the prevalence of local restrictions in western Europe during the period of mercantilism. (Consult special histories; see also "The Story of a Peasant" by Erckmann-Chatrian, Pt. I., Ch. 2 and 5).

8. Are there any examples of such restrictions in early

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American history? (Indus. Hist. of U. S., Bogart; also Coman; Fiske's Crit. Period of Amer. Hist.)

9. Are you a mercantilist? Would you be a mercantilist were you living in Western Europe two hundred years ago?

10. What is socialism? Is there any connection between socialism and mercantilism? (See art. "Socialism" in Palg. Dict.).

CHAPTER III.

DEVELOPMENT OF MODERN COMMERCIAL POLITICS: FREE TRADE

30. Political and Economic Revolt Against Mercantilism.—From the foregoing chapter it is clear that mercantilism was the economic expression of an effort to offset the decentralizing tendencies characteristic of the Middle Ages. The conditions which characterized the beginnings of the modern period demanded strenuous state activity along national lines, but in proportion as effective political and economic nationality was realized the need of governmental activity of the mercantilistic variety lessened and the accumulated network of antiquated regulations tended to retard commercial and industrial expansion. A political and economic reaction arose both in England and on the Continent during the eighteenth century. The political reaction received its inspiration from English philosophers, especially John Locke, was popularized by French writers, especially Rousseau and Voltaire, and received its classical expression in America and France—in the former country in the Declaration of Independence wherein it is stated "that all men are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty and the

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pursuit of happiness,"—in the latter country under the banner of the great Revolution of 1789—"liberty, equality, and fraternity." The economic reaction which was centered in France received the name of the Physiocratic System, while a similar movement, centered in England, became known as the Free Trade System.

21. The Physiocratic System.—The founder of this system was the French economist, Quesnay, while Turgot, the French statesman, was its most brilliant expositor. There were two distinct ideas of this school, both being opposed to mercantilism. In the first place the Physiocrats believed in the superiority of agriculture over commerce and industry. They regarded agriculture as the only source of increments of wealth because it alone produced a "net product," that is, an excess over the cost of production. Farmers and land owners alone were productive; all other classes were unproductive or "sterile." In the second place the Physiocrats held to the belief in a natural order of society and thought it useless to devise laws and regulations. They proclaimed the doctrine that things should be let alone (*laissez-faire, laissez-passer*). The first of these principles was an exaggeration and did not long survive as an important economic doctrine. The second principle, however, became dominant in political economy for nearly a century. Although the Physiocrats had many gifted adherents they never obtained a popular hold even in France itself.

22. The Free Trade System.—In England where

commerce and industry were more important economic factors than on the Continent the reaction against the restrictive system took a somewhat different form. This movement, as already stated, became known by the name of Free Trade. Its most important forerunner was David Hume, but its most prominent expositor was Adam Smith. His epoch-making book, "Wealth of Nations," which appeared in 1776, is the gospel on which modern political economy is based. Smith's entire work is pervaded by the spirit of individualism. The Mercantile System had, he claimed, favored the producer at the expense of the consumer. Both should be cared for. He agreed in the main with the *laissez-faire* principle of the Physiocrats, but did not agree with them that agriculture alone was productive. He emphasized the importance of commerce and industry. Free trade was a necessary condition of economic development because it enabled every land to produce those things which it could produce at least cost. He refuted the idea of the Mercantilists that trade is not mutually advantageous to both parties. If nations or individuals exchange the things they can produce at least cost for other goods less easily produced, society as a whole gains thereby. Furthermore, every sane man knows his own interest and if left to himself will strive to maintain or better his economic condition. His prosperity is not only an individual, but also a social gain.

23. **England.**—The principle of non-interference in trade and industry, taught in the "Wealth of

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Nations," was quite in keeping with the changed and changing economic conditions in England at the close of the eighteenth and the beginning of the nineteenth century. England lost the political control over her most important colonies in the New World, although economic dependence was largely retained. A movement in the direction of *laissez-faire* showed itself in mollifying changes in her colonial policy, in the tariff reforms inaugurated by the younger Pitt and in her commercial treaty in 1786 with France. This movement, however, was very much disturbed by the great political revolution centered in France and the great industrial revolution focused in England. In the few decades following 1760 English industry was completely revolutionized by a series of remarkable inventions, especially in the textile and iron manufactures, as well as in the general application of steam to industry and to land and water transportation. Some of the results of this revolution were the supplanting of home industry by the factory system, the removal of restrictions on domestic industry, such as those regulating wages and the price of commodities, and the establishment of competition as the ruling economic principle. England became the dominant industrial nation of the world. The French Revolution and the Napoleonic wars (1789-1814) favored her industrial supremacy by diverting the energies of the people on the Continent from peaceful pursuits and by making commerce and navigation more profitable than manufacturing industry to the great neutral nation

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—the United States. It is easy, therefore, to understand that the growing manufacturing interests of Great Britain looked with favor upon the policy of free trade since such a policy would tend to cheapen her manufactures and thereby strengthen her industrial supremacy, both at home and abroad, by permitting the free importation of raw materials used either directly in manufactures or indirectly as food for the working classes. The first modification of the English tariff (generally spoken of as a change of the "Corn Laws," because the import duty on wheat formed the centre of controversy) occurred during the twenties under the leadership of Huskisson. The Anti-Corn Law League was formed in 1838 by Richard Cobden, secretary of the chamber of commerce at Manchester, and under the inspiration of its leader, carried on a strenuous agitation in England which led to a practical repeal of the Corn Laws in 1846 under the premiership of Peel. The finishing touches were given by the repeal of the Navigation Laws in 1849, the Coast-wise Navigation Law in 1854, the negotiation of the commercial treaty, known as the Cobden treaty, between England and France in 1860, and later legislation during the first premiership of Gladstone (1868-1874). Since then England has made practically no use of customs duties excepting those of a purely revenue character.

24. The United States.—Broadly speaking, the dominant principle in American commercial politics up to the period of the Civil War, excepting the period from about 1815 to 1830, was *laissez-faire*.

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Early protection so far as it did exist referred more to navigation than to industry. There were at first but few manufactures, while the most important interests were shipping in New England and agriculture in the Middle and Southern states. As the only important neutral nation during the Napoleonic wars, the United States became the great carrier nation of the world, but when the British Orders in Council and Napoleon's Berlin and Milan decrees drove American ships into American ports, and Jefferson's Embargo and the War of 1812 detained them there, the United States lost her supremacy on the high seas. Surplus American labor and capital were diverted from commercial into agricultural and industrial pursuits. The agricultural development expressed itself in a westward movement of the population; the industrial, in the rapid growth of manufactures, especially of the textiles in New England. The effort to protect the latter from the ruinous competition of British manufacturers gave birth to the first era of industrial protection in the United States from about 1815 to 1830. From the latter date, or more particularly, from the tariff act of 1833 to the Civil War (excepting a slight temporary reaction from 1842 to 1846), the characteristic feature of the American commercial policy was a tariff whose primary purpose was that of revenue.

25. Continental Europe.—The economic situation in Western Continental Europe during the first sixty years of the nineteenth century differed from the conditions both in the United States and in

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England. In the United States, broadly speaking, the free trade idea was generally favored by all classes excepting in the decade or so following the close of the War of 1812. In England it found favor among the industrial and commercial classes, but was opposed by the agriculturists. On the Continent it received at first only an academic acceptance. The Napoleonic wars had left European governments in a state of bankruptcy. Many old and new industries, which had been stimulated by the restrictive "Continental System" of Napoleon, found themselves subjected to the ruinous competition of England at the close of the war. The effect on the Continent was similar to the effect in the United States—a general enhancement of customs duties. This was especially marked in some countries like France, while the movement in Germany was more moderate and culminated in 1834 in the formation of the German Zollverein, or tariff union, of most of the German states. Nevertheless, the industrial revolution in England and the lowering of her import duties on raw materials, tended to enlist the continental agrarian classes in favor of free trade since they, like the cotton planters in the United States, wanted no restriction on their sales of agricultural products to England and their purchase of English manufactured goods in return. Likewise English economic theory invaded the Continent. The official and academic classes accepted very generally the doctrine of the English school of political economy as expounded by Smith and his followers among whom Ricardo and Mill

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were the most conspicuous. These interests combined with the efforts of the agriculturists and of those industrialists who had little to fear from English competition, brought about a reaction in the direction of free trade which found expression in the Cobden commercial treaty between England and France in 1860. This was followed by similar treaties negotiated by England and France with other European countries. These treaties provided for a marked lowering of customs duties and it was presaged by many that the "era of free trade" had become, or was about to become, the universal policy. Cobden himself seemed to have no doubt on this point, for after signing the treaty which bears his name he is reported to have said: "You might as well tell me the sun will not rise tomorrow as tell me that foreign nations will not adopt Free Trade in less than ten years from now." The dream of the free traders has not been realized. In less than ten years from the signing of the treaty of 1860 there were signs of a reaction in the direction of higher duties.

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SUGGESTIVE TOPICS AND QUESTIONS

1. What free trade arguments were used by the following English statesmen? Huskisson, Peel, Cobden and Gladstone (consult parliamentary debates; also edited works of the above statesmen)?

2. Do economic conditions change in a country? Are we justified in changing our opinions on economic subjects when conditions change? Are we justified in changing such opinions when conditions have not changed?

3. Can you cite any great statesmen who have changed their views in regard to the tariff? Give their reasons for so changing? (Consult speeches of Webster, Calhoun, Bismarck, Chamberlain.)

4. What is the position of the democratic party in the United States regarding free trade? (Consult platforms of 1896, 1900 and 1904).

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5. What is individualism? Is there any relation between individualism and free trade?

6. In what sense may free trade in England be said to be negative protection?

7. Might you believe in the theory of free trade and yet be a protectionist? Explain.

8. In the free trade and protection controversy in 1889 between Gladstone and Blaine what arguments were brought out by the former in favor of free trade? (N. Am. R., CL, 1889.)

9. What has the term "free trade" meant at different periods? Bastable's *Theory of Inter. Trade*, p. 128; Seligman, p. 501; see also "Free Trade" in *Palg. Dict.*

CHAPTER IV.

DEVELOPMENT OF MODERN COMMERCIAL POLITICS: PROTECTION

26. General Character of Protection.—Protection is the policy of encouraging home industries, usually by the imposition of customs duties or by bounties paid to domestic producers. It is therefore opposed to the principle of free trade. It is sometimes characterized as a return to mercantilism. Under protection, however, export duties are largely done away with, while prohibitions, either on exports or on imports, are the exception and not the rule. The level of duties is lower than under mercantilism, and discriminating navigation laws, bounties, and subsidies are less frequently employed. War, often resorted to under mercantilism in order to promote or repress commerce, is now less often used for such purposes. More peaceful means are at hand. Neutral rights are more respected and great advances have been made in international law. Better means of transportation and communication, improved banking facilities, more reliable statistical information, more accurate knowledge regarding international, political and economic conditions, and in general a wider and better understanding and appreciation of social and economic laws make mercantilism an impossibility.

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27. Causes of Recent Growth of Protection.—

The growth of protection, almost universal during the past few decades, is explained on several grounds. In the first place it is due in part to a general reaction against the purely negative character of English political economy. This reactionary movement originated in Germany about the middle of the last century and its advocates became known as the "historical school." It differs from the "classical," or free trade school, by interpreting the complex phenomena of industrial life in the light of history rather than by deductions based on isolated facts. It also regards the state as an ethical factor and as an organ for the promotion of all social aims which cannot be adequately realized by voluntary individual effort, rather than as an institution whose functions were merely to protect life and property. In other words, while the classical school stands for individualism and free trade, the historical school represents national and protective tendencies.

The second factor which helps to explain the development of protection is a number of costly wars during the sixties and seventies, especially the American Civil War and the Franco-Prussian conflict. Wars arouse the sentiment of nationality and are extremely costly, or as one writer expressed it, "the exigencies of finance give support to the sentiment of protection." In times of war all forms of taxes are submitted to with little opposition, but upon the return of peace when tariff reductions are demanded these are generally made along the lines

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of least resistance, that is, on "unprotected articles," or on such as are not produced at home.

Finally the recent growth of protection is due, in a large measure, to intense international competition caused by greatly improved means of transportation and communication coupled with the enormous industrial development, especially in Western Europe, and with an equally prominent agricultural development in the central part of the United States, in Eastern Europe, in Argentine and in other parts of the world. Western Europe is deluging the rest of the world with her manufactured goods, and many countries which are attempting to develop their own manufactures, are showing resentment in the form of high import duties, while the agricultural classes of Western Europe are showing a similar resentment against the influx of agricultural products from countries which are industrially less advanced.

28. Main Arguments for Protection.—England is the classic land of free trade, not only because *laissez-faire* finds its most practical application in British politics of the first part of the nineteenth century, but also because British writers—Smith, Ricardo, Mill and others—are among its best expositors. Similarly the United States is the classic land of protection because the policy has been tried in this country in all its phases, and its best exposition has perhaps been given by American writers—Hamilton, Carey, Patten and List. The last named was, of course, a German and is mentioned here only because he spent several years of exile in the

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United States and received his inspiration in part from the writings of Hamilton and from the economic policy of the United States, for his residence in this country (1825-30) was during the high water mark of the early period of American protection.

Various arguments have been advanced from time to time in favor of protection. *The national independence argument*, based upon the idea that a variety of industries is desirable for a country in order to make a nation economically independent, a condition especially desirable in case of war, and to develop its spirit of nationality was the keynote of Hamilton's argument. It was advanced at a time when the American federal government had hardly passed the experimental stage, and the development of a stronger central government was of the greatest necessity. Hamilton's argument was, therefore, more essentially political than economic.

American industries that had sprung up during the period of the Embargo, Non-intercourse Act and the War of 1812 were protected by the tariff of 1816 and by later tariffs largely on the ground that they were infant industries and needed the temporary fostering care of the government in order to tide over domestic disadvantages in production. *The infant industry argument* was also the keynote to List's writings, and the argument which he used effectively in his advocacy of a German tariff union, or Zollverein, which was formed, as previously stated, in 1834 and which

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became the economic forerunner of German political union.

The vested interest argument, the plea that it is better to leave well enough alone and not disturb existing vested rights, has been employed probably in every customs tariff act that ever came into the arena of discussion. This argument is especially prominent at the present time in the United States, and its advocates are generally dubbed "Stand-Patters."

The home market argument was especially emphasized by Henry Clay, and was designed to persuade the new agricultural West that its best markets would be found in the North and East by fostering the manufacturing interests of the latter. This argument has been effectively employed since the time of Clay because the American domestic market has become the greatest market in the world.

Since the Civil War only one new argument of importance in favor of protection has become prominent—the so-called *pauper labor argument*. At an earlier period in American history it used to be maintained that protection was necessary *because* wages were high. The existence of high wages in the United States handicapped American manufactures and protection was necessary in order to equalize this disadvantage. Now the argument is inverted. It is claimed that protection causes high wages and its withdrawal would mean the pauperization of American labor by making it impossible for manufacturers to pay high wages.

29. *The United States, 1789-1887.*—As has been

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stated, the early phases of American protection related to navigation protection inaugurated in 1789, and industrial protection which followed at the close of the War of 1812. The former was calculated to protect the shipping interests of New England, while the latter sought primarily to shield from foreign competition the manufacturing interests of the same locality. The need of protection to both these interests lessened in the latter part of the twenties, and during the succeeding thirty years (excepting a slight reaction from 1842 to 1846) the policy of the United States was essentially one of free trade. There was a panic in 1857, and the Civil War beginning soon after led to a demand for enormous revenues which was met by a resort to a comprehensive system of both import duties and internal taxation. The war developed a strong sentiment of nationality in the North and this was intensified by the hostile attitude of certain European interests which were unfavorably affected by the struggle. These conditions, together with the withdrawal from the Union of the agricultural South, left the industrial classes of the North the dominant factor in American politics. Then, too, in the years following the War the country was too much engrossed in questions of reconstruction to discuss the tariff. The result was that in lessening the burdens of taxation those most interested in protection succeeded in having the reductions made in internal taxes and in those import duties which were levied on articles for the most part not produced in the United States. In the

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early seventies after the disturbed conditions following the Civil War became more settled, an agitation for tariff reform led to very moderate reductions in the tariff act of 1872, but owing to the panic of the following year a reaction set in which found expression in the tariff act of 1875. A return of prosperity, however, in the latter part of the seventies, owing in a large measure to good harvests in this country and poor harvests in Europe, caused a surplus of revenue and another agitation for tariff reform. This led to the appointment of a tariff commission in 1882 and a new tariff law in 1883 with moderate reductions based largely upon recommendations made by the commission.

30. The United States 1887-1897.—The slight reductions in the act of 1883 were unsatisfactory to the advocates of freer trade and the tariff issue was forced to the front in the presidential campaign of 1888 largely because of Mr. Cleveland's annual message of the preceding year which was devoted entirely to the tariff question. He committed the Democratic party to a policy of a tariff for revenue, and on that issue the Republicans elected Mr. Harrison as President. They interpreted their victory as an indorsement of the policy of protection and passed the tariff act of 1890, known as the McKinley Bill, which had the two-fold purpose of reducing the large treasury surplus and increasing the protective duties. It accomplished both these results in a marked degree. As regards the former, it was more than successful because of very liberal appropriations by Congress and because of the financial

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panic in the years following 1892. In fact it created a revenue deficit. As regards the latter it may be said to represent the high water mark of American protection. The country showed its disapproval by defeating the republican candidate and electing Mr. Cleveland in 1892. The democratic platform of that year went so far as to declare a protective policy unconstitutional, but Mr. Cleveland and the majority of his party certainly did not represent such a radical view. In fact the tariff act of 1894, known as the Wilson-Gorham bill, not only did not meet the views of the radical element in the democratic party, but was equally unsatisfactory to the more moderate element. The President allowed it to become a law without his signature. The abolition of the duty on wool seemed to be about the only radical feature of the law. Such was the law under a democratic president and with the Democrats in a majority in both houses of Congress. In 1896 the presidential issues were primarily the silver question and secondarily the question of the tariff. The Republicans succeeded in electing as President the champion of protection, Mr. McKinley, and the first thing the party did upon coming into power was to pass the Dingley tariff act of 1897. From a financial standpoint its purpose was to raise revenue in contrast with the act of 1890, the purpose of which was to reduce it. Both acts were similar in having protection as a main purpose. It was thought in 1890 that the acme of American protection had been reached, but the act of 1897 has in

many respects far outreached the law of 1890 as a protective measure.

31. Present Situation in the United States.—From the preceding it appears that theoretically the Democratic party in the United States stands for a "tariff for revenue only," and that the Republican party believes in the policy of protection. In practice, however, it does not appear that the two parties have been very divergent in recent years since the Democratic party, when in control of the national government, has been unable to enforce any radical departure from the policy of protection. The advocates of protection in the United States at the present time may be divided into two classes—one, defending protection as a temporary and the other as a permanent policy. The former is claiming that the policy has accomplished its greatest good in building up American industries and in preserving the domestic market for American manufacturers, but that the time has now come when certain modifications may well be undertaken, especially by lowering import duties on raw materials and on domestic manufactures controlled by the trusts. They also emphasize the importance of lowering import duties in order to facilitate the growing export trade, especially in manufactured goods. Those who oppose this view especially emphasize the "vested interest argument," saying that the United States has the greatest market in the world, and why sacrifice it for access to less important fields; that billions of capital have been invested in industries which would be jeopardized by tariff

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modifications; and that we are immensely prosperous and why not let well enough alone?

The tariff is only one among many questions which at the present time is causing, more or less unconsciously, a political readjustment. It is difficult to say just how this readjustment will take place, but it is apparent that a large element in each party is finding political sympathy outside the ranks of its political organization. The present political situation is well characterized by Lyman Abbott in a recent number of *The Outlook*. "Both the Republican and Democratic parties are divided," says Mr. Abbott, "into two hostile wings. These wings are kept close together less by coherence in principle than by personal fellowship and a common tradition, and the latter is a constantly weakening bond. In one wing of the Republican party are the representatives of special interests, strengthened by conservative adherence to the established order; in the other are advocates of an industrial reform, but by a gradual and evolutionary process. In one wing of the Democratic party are the representatives of special interests strengthened by a traditional faith in the philosophy of individualism; in the other are advocates of an industrial reform by radical and instantaneous measures." The question seems to be whether readjustments will take place entirely within the two great parties or whether a separate organization will be found necessary.

32. France.—The three factors referred to as explaining, in a large measure, the protection re-

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action during the past few decades—wars, changed industrial conditions and the rise of the "historical school" of economists—affected the commercial policies of European countries in much the same way as it had that of the United States, although the changes were not equally marked in all countries.

The Franco-Prussian War arrested the free trade policy in France where it never had a popular hold, but represented rather the enforced views of Napoleon III. and a majority of French economists who then, as well as now, were adherents of the English school of political economy. The need of revenue was imperative not only because of the expenses of the struggle which included a war indemnity to Germany of nearly \$1,000,000,000, but also because of the cost of reconstruction and an annually increasing expenditure for general state purposes. French commercial politics since 1871 registers a constant augmentation of protection, not only in the form of enhanced import duties, but also in the shape of discriminating tonnage duties, bounties on shipping, the shipping monopolization of trade between France and her colonies, etc. Her protection at first was largely to secure her manufactures against foreign competition, but agricultural interests received marked attention after an agricultural depression in the middle of the eighties. To-day protection is perhaps as strongly rooted in France as in almost any country, being favored by a large majority of nearly all classes of agriculturists and manufacturers. Most of the

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French economists, however, show little or no enthusiasm for this doctrine.

33. Germany.—Protection reaction in Germany did not take place as early as in France. In fact for several years after the Franco-Prussian War duties were generally lowered, the year 1877 registering the low water mark in German free trade tendencies. However, several years of industrial depression, beginning with the year 1873, followed by a series of poor harvests at home and good harvests abroad, which changed Germany from an agricultural exporting to an agricultural importing country, united a large majority of the agrarians and many classes of manufacturers in a campaign for protection. Germany, too, was the home of the "historical school," and the majority of her economists had become protectionists. This movement found legislative expression in a series of tariff enactments begun under Bismarck in 1879 and culminating in 1890 with the resignation of the Iron Chancellor and the appointment of Caprivi. Bismarck's commercial policy had especially protected agricultural interests. Caprivi stood for more moderate protection, especially as applied to agricultural imports, and succeeded in negotiating several commercial treaties in which his economic views were incorporated. In recent years, however, upon the termination of the Caprivi treaties (1903), Germany has inaugurated a new tariff law which stands for higher protection all along the line, but is particularly favorable to the agrarian classes. Until within very recent years the majority of the Ger-

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man people have been engaged in agricultural pursuits, but the census of 1895 showed scarcely 43 per cent. of the people thus occupied. The percentage at the present time is much less than this. Under the circumstances a foreigner finds it difficult to understand the present high tariff of Germany.

34. Other European Countries.—The general trend in Italy was not unlike that in France. From the formation of the kingdom to 1875 the tendency was toward greater freedom of trade. Increased public expenditures led to a general tariff revision in 1877 whereby higher duties were placed on all kinds of manufactures, while a few years later the agricultural depression was largely responsible for the tariff act of 1887 in which agrarian protection was the distinctive feature. Since that date there seems to be no abatement in the general protection tendency excepting a slight reactionary tendency as shown in several of her commercial treaties.

The Austrian commercial policy shows a trend similar to that of Germany. Higher protection was inaugurated in 1878 and has been the continuous policy since then, although some modifications have been made by commercial treaties with Germany and other powers. There is this distinctive difference between the German and Austrian policies—the former favors more essentially agrarian protection, while the latter emphasizes manufacturing protection. Of the remaining countries of Europe, Switzerland, Holland, Belgium, and the Scandinavian countries may be characterized as countries of moderate protection with moderate protection

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tendencies. England may be said to be a country with a moderate revenue tariff, having a slight protection tendency. Russia, Spain and Portugal are countries in which high protection tends to become more and more excessive.

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SUGGESTIVE TOPICS AND QUESTIONS

1. Make a careful abstract of Hamilton's Report on Manufactures.
2. Compare the views of Hamilton, List, Carey and Patten (consult their writings, also Rabbeno's Com. Pol. of U S)
3. Compare Carey's and Greeley's position on the tariff.
4. What did Adam Smith mean by saying that the Mercantile System favored producers at the expense of consumers? Do free traders sometimes make a similar claim against modern protection?
5. Does sentiment play any part in regard to protection in the United States? (Seager, p 378.)
6. What was the general character of the tariffs of the American colonies? (Q J Econ, VII, 78, 1893).
7. What is likely to be the future of protection in the United States? (Seager, p 381, Ann Amer Acad. Pol. Sci. Annual meeting of 1900, pp 153-169)
8. Is there anything about a protective tariff in the United States Constitution? (see Constitution, also J. Pol. Econ, V, 40, 1894)
9. If you believed that a protective tariff in the United States were unconstitutional could you conscientiously vote for protection?
10. Compare the national platforms of the Democratic party since the Civil War with reference to the position of the party on the constitutionality of protection.
11. What were the principal protection arguments of Blaine in his debate with Gladstone? (N. Am. R., CL, 1889)
12. How does Ricardo's view regarding the advantages of free trade compare with the view held by Adam Smith? (Ricardo, Ch. XXV.). with that held by J. S Mill? (Mill, Bk, V, Ch. X.).

CHAPTER V.

CUSTOMS

GENERAL: IMPORT DUTIES

35. Definition and Development of Customs Duties.— Customs duties were originally taxes on trade. They were usually payments made for the use of roads, bridges, ferries, harbor facilities, warehouses, weights and measures, or for the protection of goods and merchants on the highways. According to Adam Smith they “seem to have been called customs as denoting customary payments which had been in use from time immemorial.” Sometimes these duties were levied at the boundary, as for example in an insular country like England where from very early times there was an export duty on wool, but more often they were collected at the gates of a town, at various places of deposit or at other convenient localities. Fiscal requirements were almost the sole reason for the levying of these duties. In the course of time as states became more consolidated these innumerable taxes became more and more of a hindrance both to political and economic development. The result was a tendency toward the elimination of restrictions and the unification of taxation out of which has developed in most modern civilized states the two-fold system of taxation—internal taxes and customs

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duties. The former include that part of the income of a country derived largely from general property, incomes, stamps, licenses and excises or taxes placed on certain commodities of home production and consumption, notably on tobacco and liquors, while customs duties are taxes levied upon merchandise which passes the frontier.

Customs duties in a national sense were first developed in England, beginning especially at the time of Cromwell. Colbert, as has been stated, cherished the plan of replacing the multitudinous local customs duties in France by general taxes levied at the national boundary, but this reform was not effected until the period of the Revolution. A similar movement was begun in other European countries during the latter part of the eighteenth century. In Germany it found expression in the Prussian tariff act of 1818 which was the forerunner of the German tariff union, or Zollverein, organized in 1834. In early American history taxation was entirely local in character but this was largely modified in 1789 by the federal constitutional requirement that "all duties, imports, and excises shall be uniform throughout the United States."

36. Classification of Customs Duties.—There are three general classes of customs duties: (1) import duties, or those levied on merchandise brought into a country; (2) export duties, or those levied on merchandise sent out of a country; and (3) transit duties, or those levied upon merchandise passing through one country and destined for another. Customs duties may be based upon value

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and measured in percentages, or they may be based upon a unit of weight or measure and measured in payments per pound, ton, kilogram, dozen, quart, liter, etc. The former are called *ad valorem* and the latter, specific duties. We speak of a systematic arrangement of customs duties as a customs tariff or more often as simply a tariff.

Customs duties may be either for purposes of revenue or for protection. The former seem to mean duties levied for the sole purpose of revenue, while the latter would appear to be those levied entirely for the purpose of protection. In practice, however, the terms are not used in this absolute sense, since both revenue and protection play more or less of a rôle in nearly all customs duties. It is, therefore, more correct to define revenue customs duties as those levied upon merchandise primarily for revenue and incidentally for protection, while conversely protective duties are those which are primarily for protection and incidentally for revenue.

As might easily be inferred from the preceding chapter, there are two general classes of protective duties—agricultural and industrial or manufacturing. German protection, for example, is more essentially agricultural, while protection in the United States is principally manufacturing. Nevertheless, the characteristic feature of modern protection is that it is neither entirely agricultural nor wholly manufacturing. Intense international competition has developed a community of interests between certain branches of agriculture and industry so that in most countries we find certain agrarian

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and industrial interests more or less united in favor of protection.

37. Definition and Classification of Import Duties.— Import duties have been defined as taxes or imposts levied upon merchandise brought into a country. Their purpose may be to raise revenue or to protect the national industry. The class of commodities subject to these duties varies not only according to the purpose for which they are levied, whether for revenue or for protection, but also in order to equalize the divergent social, political, and economic conditions in a country. Import duties on articles which are not produced in a country and for which there is a large demand bring good revenue returns. Such articles may be manufactures or raw materials. Revenue import duties on the former are especially applicable in undeveloped countries, like the South American states, abounding in raw materials, but when such countries become industrially more advanced and labor and capital are attracted to them, these duties tend to become protective in character. Among industrial nations there are also many instances of revenue import duties on manufactures, especially on such as an importing country recognizes it cannot profitably undertake. For example, prior to 1891 the duty on tin plate imported into the United States was purely of a revenue character since this country manufactured almost none. The development of the American tin plate industry from that date gave a protective character to the duty. Import duties on raw materials produced to a little or no extent

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in the importing country constitute an important source of revenue. Articles in this category may be divided into two groups, food products such as grain, coffee, tea, sugar, or spices, and raw materials needed for manufactures such as cotton, wool, flax, silk, iron or coal. Such imports are usually characteristic of industrially advanced countries, and duties levied on them are often objected to on the ground that they handicap international trade by enhancing the price of manufactures, directly by increasing the cost of raw materials and indirectly by compelling the payment of higher wages because of the increased cost of food products.

38. Present Importance of Import Duties.—Import duties are the most important class of customs duties, being employed almost universally by modern states. Growing national expenditures emphasize their importance which, however, is more than counterbalanced in many countries by increasing receipts from internal revenue. International competition also tends, as stated above, to discourage the levying of import duties on either the raw materials used in manufactures or on food products.

The receipts from import duties are especially important in the South American countries ranging, in many cases, from sixty per cent. of the total receipts to practically one hundred per cent. Great Britain is the classic land of revenue import duties, but her receipts from this source are only twenty-five per cent. of the total, and the percentages for the more important countries of continental Europe, with the exception of Germany, are considerably less

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than this. In the United States the average receipts from customs duties for the eight year periods 1890-1897 and 1898-1905 were \$178,819,000 and \$236,181,000 respectively, but the former represented approximately forty-two per cent. of the total revenue while the latter, owing to a relatively greater increase in receipts from other sources, principally from internal revenue, represented only thirty-five per cent. of the total. These figures are significant as indicating that the United States, in order to meet increasing expenditures, will have to resort more and more either to strictly revenue-producing import duties or to receipts from internal revenue such as excises, taxes on inheritances, and on income, if the constitutional objection to the last named can be overcome.

39. Who Pays the Tax?—In the tariff controversies in Europe and in the United States there has been much discussion as to who pays the tax. No absolute answer can be given to this question. The effect of import duties upon the price of a commodity and the incidence of the tax vary in different countries for similar articles as well as for different articles in the same country, or for like articles at different times in a given place. In general, however, it may be said that if the total supply of a commodity comes from foreign countries, such as coffee or tea imported into a country like the United States, an import duty is strictly for revenue and the consumer pays the tax. If, for example, the price of Java coffee in the world's markets were twenty-five cents per pound and the import duty in

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the United States were five cents per pound, the American price, eliminating the costs of transportation and similar charges, would be approximately thirty cents, and the difference between the two prices, or five cents per pound, would be paid indirectly by the consumer into the treasury of the United States. If there be an inadequate domestic production, so that an important part must be imported, such as sugar in the United States, an import duty would tend to enhance the price of the commodity by approximately the amount of the duty and the consumer would still pay the tax, not entirely to the government as in the case of coffee or tea, but in part to the domestic producers. For example, the duty collected on sugar imported into the United States amounts in round numbers to \$57,000,000 (average for 1903-1905). The United States, including Hawaii and Porto Rico, produces about forty per cent. of its total sugar consumption. The total additional cost to the consumer because of the import duty would be, therefore, approximately \$95,000,000, of which \$57,000,000, eliminating the cost of collection, would find its way into the United States Treasury, the balance, or \$38,000,000 being paid to domestic producers in the form of enhanced prices to consumers.

Finally the total supply of a commodity may be furnished by domestic producers or manufactures. In this case import duties are primarily for protection. If there be a rise of price under these conditions it is a tax paid by consumers, not to the government, but to domestic producers. One of

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two things may happen. The import duty may have a temporary effect of raising the price, but after the industry is well established domestic competition may force down the price until it is as low as the price in the world markets. If goods are imported under these conditions the tax is paid by the foreigner and not by the consumer. On the other hand, there may be an absence of domestic competition, as happens in many instances where the supply is largely controlled by industrial combinations or trusts in which case there is a tendency for the price of goods to advance to a point slightly less than the price in the world market plus the amount of the import duty. Under such a condition the added price is paid by consumers to the trust organization.

40. Trusts and "Dumping."—The rapid development of industrial consolidations in the United States in recent years has been contemporaneous with very high protective import duties. It is also to be observed that, while the price of trust-made goods in the home market has often been in excess of the world market price, there are many instances where the same commodities are sold in foreign markets at less than the prices ruling in the world markets. This process of selling surplus goods in foreign markets at excessively low prices, usually in order to decrease the home supply for the purpose of maintaining high domestic prices, is called "dumping." Such a course often affects disadvantageously the protected interests of other countries by making possible importations at prices which

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home industries cannot meet. Such a situation is met in Canada by the levying of "a special duty (or dumping duty) equal to the difference between the selling price of the article for export and the fair market value thereof for home consumption." The prevalence of trusts, their tendencies in many cases to suppress competition and raise prices, and their resort to "dumping," have aroused popular hostility in the United States against most forms of industrial consolidation and have provoked discussion as to their relation to protection. There seems to be a popular demand to lower the duties on trust-made goods, some going so far as to advocate the abolition of all import duties on such articles, affirming that the "tariff is the mother of trusts."

While it is no doubt true that protective import duties have in many instances encouraged the growth of large corporate organizations, it is not correct to make the general statement that trusts exist principally because of them. Upon this basis how are we to explain their prevalence in a free trade country like Great Britain? Trusts exist because of certain economies effected in their organization such as is inherent in all businesses conducted on a large scale. The abolition of all import duties on trust-made goods might in many instances hamper the development of industrial consolidations, or in some cases make them unprofitable, but in general it would tend to change the basis of their organization, making them international rather than national in scope.

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A. In general consult bibliographies of chapters VI, VII, VIII, IX and X; see also standard *dictionaries and *encyclopaedias, **economic text-books and industrial histories of modern Europe and America. (see chapters I. and IV.). *Poole's Index.

B. Consult Doc. Catalog; also Con. Rep., (especially American and British and Special U. S. Consular Reports on Tariffs); Indus. Com. Rep.; Mess. of Pres.; Customs tariffs are published officially by most governments; **American tariff law may be obtained gratis from the U. S. Treas. Dept.; see also Proctor's Tariff Acts of U. S. 1789-1897, Stat. at L. of U. S. and R. S. of U. S. For British tariff laws consult "Tariff Acts (Brit.) 1800-1897 and Hist. of Receipts since 1660," Brit. Parl. Rep. 1898 C. 8706; Tariffs of Foreign Countries, List of Works on, U. S. Library of Cong., 1906.

D. Unofficially various compendiums of tariff laws are published (Andrews, Downing, Vandergrift and especially **Kelley's Customs Tariffs of the World).

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E. Valuable material may be found in the Economic Journals (see Appendix).

Davenport, H. J., Real Cost of the Tariff, J. Pol. Econ., V., 506, 1897.

SUGGESTIVE TOPICS AND QUESTIONS

1. What is the origin of the term "customs" as used in the present chapter? (A. Smith, Bk., v., ch. ii, Art. 4; "customs duties" in Encyc. Brit.; id. in Lalor's Cycl.; "Custom" in Palg. Dict.)

2. Give examples of a customs duty which is for revenue in one country and for protection in another.

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3. Why do we speak of the abolition of protective duties in England as a "repeal of the corn laws?"

4. What has been the general attitude of organizations like chambers of commerce in the United States toward the tariff? (see annual proceedings).

5. According to the report of the U. S. Industrial Commission what is the relation between the trusts and the tariff? (Indus. Com. Rep. XIX., pp. 627-631.)

6. Are not many members of Congress experts on tariff questions? What would be the advantage of an expert tariff commission in the United States? (Indus. Com. Rep., XIV., xc; Pres. Roosevelt's Messages).

7. What should be the general aim of all legislation? Is legislation which favors certain classes in a country justifiable? How about a protective tariff? Can you mention any legislation that does not favor certain classes of society? Is the fact that the United States has a protective tariff an evidence that a majority of the American people favor protection?

8. The text states: "Import duties on raw materials produced to a little or no extent in the importing country constitute an important source of revenue." Give examples where such conditions exist. In the examples cited are the imported raw materials subject to an import duty? If not, why not?

9. Do you agree with the general statement in the text that if the total supply of a commodity comes from foreign countries the consumer pays the tax? Suppose the United States government places an import duty on tea or coffee would this not tend to raise the domestic price? If so, would not the enhanced price tend to decrease consumption? Would not decreased consumption tend to lower price in the world markets so that the domestic price would not equal the former price plus the full amount of the duty? Under such conditions would not at least a part of the duty be paid by the foreign producer or exporter?

CHAPTER VI.

CUSTOMS

EXPORT AND TRANSIT DUTIES: PROHIBITIONS

41. Definition and Classification of Export Duties.—Export duties are taxes levied on merchandise sent out of a country. Although formerly much employed they do not form a very important feature of the commercial policies of modern industrial nations. Under mercantilism it was the general policy to encourage manufactures by placing an export duty upon raw materials. England at a very early period levied such a duty on certain agricultural products, notably on wool, and this policy was in use in many of her colonies. In the United States there is a constitutional provision that "no tax or duty shall be laid on articles exported from any state," this being a concession in favor of the South which feared lest its exportation of agricultural products might be interfered with. The accepted view regarding export duties appears to be that they restrict exportations except in rare cases where a country possesses a monopoly of the exported article. If all countries should levy an equal duty on the same commodity its price would be raised to cover the amount of the duty, and consumers would pay at least the greater part of the tax. But such a duty on any one article has never been universal and the price paid by the foreign

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consumer has generally been regulated by many other more important factors, so that usually the tax has been paid by the producer in the form of an enhanced cost of production or of lessened profits.

42. Revenue Export Duties.—In the larger number of instances export duties are primarily for revenue. Some countries levy a uniform *ad valorem* duty on all exported articles. This is the case, for instance, in Turkey and in the Sudan, where the export rate is one per centum in each case. In a large number of the less industrially advanced countries such as Persia and Servia, most of the West Indian, Central and South American countries, European colonial possessions in Africa and in South Eastern Asia, specific export duties are for the most paid upon articles of domestic production. In the earlier Japanese tariff there were a large number of both specific and *ad valorem* export duties, but these have largely disappeared in the new law. Occasionally export duties are levied to meet extraordinary expenditures. England, for example, placed an export duty on coal, coke and manufactured fuel at the time of the Boer war. Some countries collect large revenues from certain export commodities of which they possess a virtual monopoly. One of the most conspicuous examples is the export duty on Chilean nitrate of soda. Similar duties are levied on cork exported from Spain and Portugal, and on Paraguayan yerba maté. Among articles subjected to export duties some of the most prominent are coffee, rubber, sugar, rum and molasses, tobacco, tropical fruits, woods and

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nuts, hides and skins from Central and South America and from the West Indies; rubber, ivory, tropical nuts and woods, sponges and olives from Africa; opium, tea, rice, silk, tin, tobacco, spices, shells, skins and precious stones from different parts of Asia.

43. Protection Export Duties.—Protection export duties are not so numerous or so easy to distinguish in the various tariff laws as those of a revenue character. There are export duties on rags in many European customs laws for the purpose of protecting the manufacturers of paper, but since wood has been used so largely in paper-making these duties have lost their importance and in some instances have been repealed. Norway and Sweden place export duties on wood and timber in order to preserve their forests and forest products, while Switzerland has export duties on cattle, skins and hides in order to protect her dairy and leather interests. For the purpose of encouraging the production of mohair in South Africa there is an export duty on Angora goats. There is also an export tax of £100 on ostriches and of £5 on ostrich eggs, the purpose of which is to enable certain South African countries to maintain a monopoly of supplying other countries with ostrich feathers. In order to preserve their coal and iron supplies some of the countries of Western Europe are discussing the advisability of levying export duties on these articles, but no definite action has been taken in the matter. Closely connected with the so-called protection export duties are those of a police char-

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acter which are levied in order to avoid or alleviate some distressing condition. They are generally of a temporary character, and may be employed, for instance, when poor harvests threaten famine to a country or when animal plagues create a scarcity of meat products. Such conditions arose in the German protectorate of Togoland in 1894 when the government was compelled to lay an export duty on sheep and Indian corn.

44. Transit Duties.—Transit duties are taxes levied upon merchandise passing through one country and destined for another. They presuppose a comparatively advanced national development. During the Middle Ages, when political and industrial life was local in character, these duties were hardly to be distinguished from those general trade taxes levied upon goods entering or leaving local centres or from bridge and road tolls and other forms of taxation. Even under the more advanced national development of mercantilism, although transit duties were generally levied, an effective system of administration was difficult. In more recent times the advent of the railroads has caused competition to arise among various nations for the land carrying trade and this has brought about a general abolition of these duties in modern industrial countries. In Russia there are no transit duties except for foreign goods destined for Persia, the purpose of these taxes being to favor Russian goods in the Persian market. Until recently there were transit duties on goods entering the Transvaal

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by way of Cape Colony or through Portuguese territory from Delagoa Bay.

As regards the administration of transit trade the goods are usually sent in bond and under regulations which ensure against smuggling. Customs officers sometimes accompany the goods. The transit may be direct, the merchandise being sent through without reloading, as would probably happen in the case of Austrian goods sent to the Baltic countries over German territory, or it may be indirect if the goods en route be unloaded, divided or placed in warehouses as would be the case for English goods sent to Canada via New York or to Switzerland via North Sea or Mediterranean ports.

45. Import, Export and Transit Prohibitions.—Prohibitions formed an important feature under the Mercantile System. As has been stated, the importation of manufactures and the exportation of raw materials were often forbidden and both were frequently made more effective by the prohibition of transit trade. The purpose of such legislation was usually to encourage domestic manufactures and to foster an excess value of exports over imports so that the precious metals might be imported to pay the balance. In more recent commercial politics of advanced nations prohibitions play a relatively unimportant rôle, their place being taken by customs duties which are based, by means of better statistical and technical knowledge, upon national industrial conditions and are tempered by a more developed sense of international legal, social and economic relations. In some countries, notably

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in Germany, prohibitions are put into operation largely by executive decrees or proclamations, but in most countries, including the United States and the United Kingdom, there are certain specific prohibitions in the tariff act coupled with a general power permitting prohibitory decrees or proclamations to be promulgated in special cases.

46. Protection and Revenue Prohibitions.—Some prohibitions are for purposes of economic protection, as, for example, the Canadian import prohibition of "oleomargarine, butterine or similar substitute for butter," or the Persian prohibitory importation of "aniline, aniline colors and all colors prepared with aniline." The aim of the former is ostensibly to protect Canadian dairy interests, while the purpose of the latter is to discourage the deterioration of Persian rugs by the use of inferior dyes. The importation of sugar into Great Britain from sugar bounty-paying countries is prohibited, the main purposes of this legislation being to protect the sugar producing interests of certain British colonies and the sugar refining interests of Great Britain.

Many countries, among them England and most of her self-governing colonies and the United States, protect home labor by prohibiting the importation of prison or pauper made goods. The American tariff states "that all goods, wares, articles and merchandise manufactured wholly or in part in any foreign country by convict labor shall not be entitled to entry at any of the ports of the United States."

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Many tariff laws contain import prohibitions of publications which infringe upon domestic copyright and of merchandise falsely labelled with a domestic trade mark. The American tariff law of 1897 stipulates in section eleven "that no article of imported merchandise which shall copy or simulate the name or trade mark of any domestic manufacture or manufacturer, or which shall bear a name or mark which is calculated to induce the public to believe that the article is manufactured in the United States shall be permitted to enter at any custom house of the United States."

Sometimes prohibitions are of a revenue character, notably in the case of import prohibitions of articles of government monopoly such as matches, tobacco, salt or playing cards in several countries. The importation of such articles is either absolutely prohibited or permitted only under very stringent governmental regulations.

While prohibitions may be for purposes of protection or for revenue, they are more often based upon grounds of sanitation, morality or public security.

47. Prohibitions Based on Sanitary Grounds.—Many states prohibit the importation of articles regarded as dangerous to public health. The list of prohibited articles in this category more commonly includes "infected cattle, sheep, or other animals or the carcasses thereof, and hides, skins, horns, hoofs, or any parts of other animals," adulterated tea, grape vines, fruit trees, spurious liquors and in general "comestibles in a state of decompo-

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sition or other products injurious to public health." Section twenty-five of the American tariff act states "that the importation of neat cattle and the hides of neat cattle from any foreign country into the United States is prohibited," but the Secretary of the Treasury is empowered to suspend this import prohibition as regards any country when "such importation will not tend to the introduction or spread of contagious or infectious diseases among the cattle of the United States." Furthermore, American law prohibits the importation of any adulterated or unwholesome food or drug, or any vinous, spirituous or malt liquors adulterated or mixed with any poisonous or noxious chemical, drug, or other ingredients. (Acts of August 30, 1890, and March 1, 1899.) A very extensive power is also given the President to suspend by proclamation the importation of any articles he regards as "dangerous to the health or welfare of the people of the United States" (Section 4 of the Act of March 3, 1891).

Sometimes sanitary prohibitions are of an international character. By virtue of the international phyloxera convention of 1883, for example, the importation of grape vines and wine props into several European countries was forbidden, while the importation of grapes was carefully regulated. The general exclusion in European countries of certain American agricultural products suggests more than national efforts in this direction. Such exclusion acts have not, however, been based upon open international agreements.

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48. Prohibitions Based on Moral or Religious Grounds.—All civilized states prohibit the importation of certain articles offensive to the national morality. Usually these prohibitions are incorporated in the general tariff act, but sometimes they are to be found in special statutes. Section sixteen of the American tariff forbids the importation of "any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure or image on or of paper or other material, or any case, instrument or other article of an immoral nature, or any drug or medicine, or any article whatever for the prevention of conception or for causing unlawful abortion, or any lottery ticket or any advertisement of any lottery." The Russian tariff includes in its prohibitions the "importation of articles of an irreligious, irreverent, blasphemous or impious character." In the Persian law there is an import prohibition of all writings or pictures which are opposed to the Mohammedan religion, while the Sudan tariff prohibits the importation of all articles "calculated to throw contempt on the Moslem or Christian religion." Many nations prohibit the importation of certain articles the consumption of which they regard as morally or physically degrading to their inhabitants. Japan prohibits the importation of opium, excepting such as is imported by the Imperial government for medicinal purposes. In the United States the importation of opium by a subject of the Emperor of China is prohibited. China herself has on many occasions attempted to prohibit the importation of

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this pernicious drug, but up to the present time her efforts in this direction have been frustrated largely on account of the hostile attitude of certain European powers. Russia prohibits the importation of corn spirit and vodka into Amoor from China, and of grape brandy into her Trans-Caspian territory.

There are also agreements of an international character in this category. For example the Brussels conferences of 1885 and 1890 decreed against the African slave trade and the selling of liquor to native Africans.

49. Prohibitions Based on Grounds of Public Security.— There are prohibitions against the importation of fire arms, ammunition and general munitions of war in many parts of Africa, in countries of Western Asia, notably in Turkey and in Persia and in many of the East and West Indian islands. Several of the Central and South American tariffs also contain similar prohibitions, but such restrictions are not common in the laws of the more advanced nations. The Philippine tariff includes in the list of excluded articles "dynamite, gunpowder, and similar explosives, and fire arms of all descriptions and detached parts thereof, unless the importer shall produce a special authorization for landing issued to him by the civil governor." The Russian tariff is very sweeping in this particular, many kinds of arms and ammunition being entirely prohibited, while other kinds may be imported only by special permission of the Minister of Finance. It is also interesting to note that in Great Britain among the articles the exportation of

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which may be prohibited or restricted by proclamation or by orders in council, are to be found "arms (including fowling pieces and gunstocks), ammunition and gunpowder, military and naval stores, and any articles which may be judged capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions or victuals which may be used as food for man." The tariff laws of many states contain import prohibitions of debased or counterfeit coin, as well as also of false weights and measures. The English law includes in this list "false money or counterfeit sterling; silver coin of the realm, or any money purporting to be such, not being of the established standard of weight or fineness; all coins coined in any foreign country other than gold and silver coins." The Canadian law has a similar regulation, and besides this Canada prohibits the importation of "books, printed paper, drawings, paintings, prints, photographs or representations of any kind of a treasonable or seditious" character. Other states have similar laws, excluding not only articles but also persons regarded as politically undesirable. The United States has important legislation excluding or restricting foreign immigration, but such laws do not form a part of the tariff policy either in the American Republic or in other countries.

Finally, there is a certain class of prohibitions of a temporary character based upon grounds of public security. For example, Russia prohibited the exportation of wheat in 1892 because of a shortage of the domestic crop, and for a similar reason Germany

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and Austria-Hungary in the following year prohibited the exportation of various kinds of fodder.

BIBLIOGRAPHY

A. Consult bibliography of the preceding chapter (V.).

SUGGESTIVE TOPICS AND QUESTIONS

1. If there were no constitutional prohibition against export duties in the United States what would be the economic effect of an export duty on cotton? On wheat, when the United States had a good harvest and there were poor harvests in other countries? When the reverse conditions prevailed?

2. Make an abstract of the American statutes affecting transit trade (R. S. of U. S.).

3. What would be the effect upon American commerce were a transit duty levied on goods imported at New York or any other port of the United States and destined for Canada or Mexico?

4. What would be the effect of a transit duty in England? Suppose the same transit duty had to be paid at all the Northern ports of Europe? At all European ports?

5. Is there any practical difference between customs prohibitions and prohibitory customs duties?

6. Is international commerce an aid to civilization? If so, has one nation any moral right to prohibit its citizens or subjects from trading with foreigners? Under such conditions has a foreign government any recourse? Give examples.

7. What were the terms of the compromise which led to the constitutional prohibition of export duties in the United States? (Well's Merchant Marine, Ch. IV; also Madison's Notes on the Constitutional Convention).

8. May a state of the American Union levy customs duties or prohibit imports? The boll weevil insect threatens the cotton crop of the South with destruction. May Louisiana, in order to protect herself against this danger pro-

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hibit the importation of cotton from Texas (U. S. Constitution, Art. I., Sec. 10)?

9. Study the tariff laws of various countries and make a list of prohibitions (not mentioned in the text) based on (1) sanitary grounds, (2) moral grounds and (3) grounds of public security. (Kelley's Customs Tariff, also special U. S. Consular Reports on Tariff.)

10. May the United States exclude any foreigner, even of a friendly power? (Chinese Exclusion Case 130 U. S. 591; also Art. "Immigration" in Am. and Eng. Encyc. Law).

11. Since the United States Constitution prohibits export duties how do you explain the existence of export duties in the Philippine tariff?

12. May foreign countries prohibit American imports, in accordance with treaty rights? (See Prussian-American treaty of 1828).

13. Several European countries have prohibited the importation of several American agricultural products. Was there any politics in these measures? (See index to For. Rel. of U. S.)

CHAPTER VII.

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TARIFFS AND TARIFF SYSTEMS

50. Introduction.—A tariff is a table or scale of charges. Thus there are railroad tariffs, insurance tariffs, telegraph tariffs, custom tariffs and the like. A customs tariff is a systematic arrangement of customs duties. It is spoken of as a tariff law, act or bill and is usually divided for purposes of convenience into schedules, each schedule comprising the principal articles of allied groups which are subdivided into numerous sections with duties or rates for each section. The general arrangement is, in many instances, alphabetical. A tariff law is based upon the general economic and political conditions of a country and represents a compromise between the conflicting interests of producers and consumers. It also furnishes a basis upon which commercial relations with foreign countries may be regulated. The general character of a customs tariff depends largely upon its purpose, whether it be primarily for protection or primarily for revenue. In the latter case but few articles are taxed. The revenue tariff act of Great Britain, for example, contains only about forty rates and eighteen different classes of articles and may easily be printed on four or five sheets of ordinary sized paper. On the other

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hand, the protective tariff of Germany is divided into nineteen chapters, contains nearly one thousand numbers or rates, and occupies over thirty quarto pages of printed matter.

51. Contents of the American Tariff Act.—The first tariff act of the United States, passed on July 4, 1789, comprised six sections with about eighty different rates and might easily be printed on three sheets of ordinary sized paper. Quite in contrast with this is the present tariff law enacted in 1897 and known as the "Dingley Bill." It includes thirty-four sections. Section one is subdivided into schedules lettered from A to N (inclusive) while succeeding sections relate to various subjects such as the list of articles admitted free of duty (section two), reciprocity, etc. Sections one and two contain 705 paragraphs. The schedules contain special classes of articles such as "metals and manufactures of" (C), "wood and manufactures of" (D), etc. The arrangement of paragraphs under each schedule is, when practical, alphabetical. For example under schedule N (sundries) there are beads, braids, brushes, etc. Besides indexes and other explanatory matter the act comprises about eighty pages of printed matter. The increased complexity of the existing law is due in a large measure to the growth of protection in the United States. The general character of the act may be shown by the following table of contents.

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SCHEDULES

Each schedule is divided into paragraphs, consecutively numbered and alphabetically arranged (when practical). Each paragraph contains special rates, ad valorem or specific or a combination of both.

A. Chemicals, Oils and Paints	Nos. 1 to 86 inclusive	} Section 1
B. Earths, Earthenware and Glassware	" 87 to 120 "	
C. Metals and Manufactures of	" 121 to 193 "	
D. Wood and Manufactures of	" 194 to 208 "	
E. Sugar, Molasses and Manufactures of.....	" 209 to 212 "	
F. Tobacco and Manufactures of	" 213 to 217 "	
G. Agricultural Products and Provisions	" 218 to 288 "	
H. Spirits, Wines and other Beverages	" 289 to 301 "	
I. Cotton Manufactures.....	" 302 to 322 "	
J. Flax, Hemp and Jute and Manufactures of.....	" 323 to 347 "	
K. Wool and Manufactures of Wool	" 348 to 383 "	
L. Silks and Silk Goods.....	" 384 to 392 "	
M. Pulp, Papers and Books..	" 393 to 407 "	
N. Sundries	" 408 to 463 "	
Free List.....	" 464 to 705 "	Sec. 2
Reciprocity and Special Sections, Sections 3-34 (inclusive)		
Index generally added in special editions		
Administrative Act generally added in special editions		
Index to Administrative Act generally added in special editions		
Internal Revenue Law generally added in special editions		
Index to Revenue Law generally added in special editions		

TARIFFS AND TARIFF SYSTEMS

52. The Free List.—In some tariff laws, such as the revenue tariff law of Great Britain, certain articles are enumerated as dutiable or as prohibited and all other goods are allowed entrance free of duty. Many of the European tariff laws contain schedules or groups in which are to be found not only dutiable or prohibited articles but also articles which are entered duty free. Other tariff acts contain a special or separate "free list" and stipulate a certain uniform rate of duty for all unenumerated articles. This is a feature of the Canadian and the American tariff laws. Section six of the latter act states "that there shall be levied, collected and paid on the importation of all raw or unmanufactured articles, not enumerated or provided for in this act, a duty of ten per centum ad valorem, and on all articles manufactured, in whole or in part, not provided for in this act, a duty of twenty per centum ad valorem." When imported goods are composed of different kinds of dutiable articles which cannot be separated it is customary to apply the rate on the material having the highest duty.

53. Tariff Enactment and Administration.—The enactment and administration of a tariff depends upon the political character and constitution of a state. They usually come within the purview of the central authority. In the United States both tariff enactment and administration are matters of the federal government, the Constitution providing that Congress shall have power to lay and collect taxes, duties, imposts and excises and to make all laws which shall be necessary and proper for carry-

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ing these powers into effect. In states lacking political unity, however, the enactment and administration of tariff laws are sometimes regulated by reciprocal arrangements between central and state or local authorities. Thus in Germany the enactment of tariff laws is, according to the Constitution, solely a matter of the Empire, while the collection and administration of the duties are left to the several states subject, however, to Imperial supervision. A somewhat similar arrangement is in vogue in Austria-Hungary. Some states have nominally the power of enacting customs tariff laws but these laws are administered by an international board. This is the situation in China. The finances of Egypt are virtually controlled by England through an English financial adviser without whose concurrence no financial legislation can be enacted. Arrangements somewhat analogous to this are to be found in several backward countries such as Persia and San Domingo.

54. Territorial Scope of Tariff Laws.—Usually tariff laws are co-extensive with the political boundaries of states—exclusive of their colonies. Thus the tariff law of Great Britain is applicable to England, Ireland, Scotland and Wales but not to English colonies which have special tariff acts of their own. In the United States the general tariff law applies to all the states as well as to all of the continental and some of the insular territories of the Union. It includes Hawaii and Porto Rico but not the Philippines and minor island possessions. In some cases tariff laws do not apply to all the con-

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tiguous territory of a state and in other cases it includes foreign contiguous territory. Thus the German customs union (Zollverein) did not include the free cities of Hamburg and Bremen until 1888 while Trieste and Fiume bordering on the Adriatic were not incorporated into the Austro-Hungarian customs union until 1891. On the other hand, the Austrian communities of Jungholz and Mittleberg and the independent duchy of Luxemburg are economically so dependent upon Germany that they have been incorporated into the German customs union, while for a similar reason the independent principalities of Lichtenstein and Monaco have been included in the Austro-Hungarian and French customs tariff systems respectively.

55. Revenue Effect of Anticipated Tariff Changes.—Contemplated changes in tariff laws influence imports which are large in view of a probable rise in rates as was the case in the United States during the months preceding the enactment of the high tariff laws of 1890 and 1897 and small when existing rates are likely to be lowered, a condition existing in the United States prior to the enactment of the tariff act of 1894. Such conditions are disturbing to business. The French law of 1897 attempts to lessen this evil by temporarily applying the new rates when a law is proposed which raises the rates of duty on cereals, wine, animals and fresh meat. Should the proposed bill fail to become a law the excess revenue thus collected is refunded. Spain, Greece, Italy and England have somewhat similar regulations.

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56. General or Autonomous Tariff System.—

In modern commercial politics there are three prominent customs tariff systems—the general or autonomous, the general and conventional, and the maximum and minimum. The general or autonomous is the simplest kind of a tariff and consists of a single list of customs duties applicable to the goods of all countries without distinction. Such a tariff system is solely an act of the legislative branch of a government. It takes account primarily of home industry and considers foreign commercial relations only when the latter are in complete harmony with the interests of domestic producers. Nations having a general tariff are handicapped in developing their foreign commerce as the system precludes the obtaining of trade concessions from other countries in return for reciprocal favors. This disadvantage coupled with the increasing competition in the field of international trade has led many states to modify their tariff policy in recent years. The general tariff policy has been in vogue in the United States from the beginning of our constitutional history although some slight modifications have been made since 1890. It is also the policy in use in many European countries, notably in Great Britain, Belgium, Denmark, Holland and Sweden, as well as in most of the less industrially advanced countries including the Central and South American states.

57. General and Conventional Tariff System.—

In this system a general tariff is usually constructed and then conventions are made with some countries granting them lower rates on certain articles in re-

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turn for equivalent concessions. In a general tariff there is no guarantee against frequent changes in the rates but in the conventional tariff there is usually a stipulation that rates shall remain unchanged or at least be not raised during a certain period. Sometimes the general tariff rates are purposely made rather high in order to form a favorable basis for future concessions. The rates must not, however, be too high owing to the possibility that other nations may likewise raise their own rates before attempting to negotiate, or regard the offered concessions of no real value as was practically the case in the American tariff act of 1897. This fact, together with the disinclination of the American Senate to reciprocate even under such conditions, made effective conventional arrangements with foreign countries impossible. Germany's tariff policy is interesting in this connection. In 1891 her general tariff was modified by conventions with Austria-Hungary and other countries wherein duties on certain articles were not to be raised above a certain point before December 31, 1903. Recently a new German tariff law was passed which continues the general and conventional system. While the conventional arrangements in the nineties, however, had fixed a maximum rate for many products the present law maintains a minimum rate in the case of certain agricultural products. The general and conventional tariff system is found in several European countries among them Austria-Hungary, Italy, and Servia while in Asia the new tariff of Japan belongs in this category.

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58. Maximum and Minimum Tariff System.—

This system differs from the general and conventional plan in two important particulars. In the first place instead of having two rates on only a few articles, as is usually the case in the general and conventional tariff, it has two rates on most of the articles on which duties are imposed and for this reason it is sometimes called the double or multiple system. In the second place the minimum schedule is not drawn up by the executive departments of a government as is the conventional usually but is framed by the legislative bodies at the same time that the maximum schedule is made. In other words the legislative power fixes two rates of duties for practically all articles in the tariff. These two rates register the limits within which rates must be fixed by treaty. This system is not without its advantages. It tends to give security and stability to home industries since domestic producers know within what limits the executive part of the government may act in tariff matters. It tends also to relieve the Executive of responsibility. However, there is a disadvantage in this form of a tariff policy in that foreign governments know beforehand the limitations of the country employing the maximum and minimum system. This policy has been adopted with various modifications in Spain, France, Russia, and in a few other countries. Spain made the first move in this respect. Her tariff of 1877 contained two columns of differing rates of duties, the minimum rates applying to those treaty countries to which she has guaranteed most favored national

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treatment, and the maximum rates to all other countries. Soon after the shortage of the French wine supply due to the destruction of the vines by the phylloxera induced Spain to grant France rates in many instances lower than those contained in her minimum tariff, in order to obtain from France special favors for her wine interests. Later other modifications of her minimum rates were made in favor of Germany, Belgium, Italy, Sweden and Norway and Switzerland and since all these concessions must be granted to all countries which were guaranteed most favored nation treatment by treaty the effect was a general lowering of her minimum rates. During the nineties in attempting to remedy this unfavorable situation by abolishing her most favored nation agreements she became involved in tariff wars with other countries. France adopted a maximum and minimum tariff system in 1892 which immediately involved her in a tariff war with Switzerland and led her in 1895 to grant the latter several rates which were lower than those contained in the minimum list. As she was compelled to grant these concessions to all favored nation countries the general effect was a lowering of her minimum rates. France like Spain has demonstrated to her own satisfaction the incompatibility of the maximum and minimum system and the most favored nation treaties and this has led her to abolish the latter, as far as possible, and negotiate on a *quid pro quo* basis.

Russia's experience with the maximum and minimum tariff system is not without interest. In 1893

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she adopted with slight modifications the existing rates of the tariff act of 1891 as her minimum rates while her maximum rates were to be an added thirty per cent. for imports of manufactured goods, and twenty per cent. for partially manufactured goods while in general no additional rates were to be levied on the imports of raw materials. She became involved in tariff troubles with other countries, the result being that she really ended by having three tariffs—a minimum one applicable in general to most favored nation countries, a conventional tariff offering exceptionally low rates to a few countries, notably to Germany, while her maximum tariff assumed more the nature of a war tariff. One of the most recent tariff laws, that of Canada, besides the maximum and minimum schedule, provides for a third rate on British imports. A discussion of such preferential rates belongs to a succeeding chapter.

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SUGGESTIVE TOPICS AND QUESTIONS

1. What were the tariff relations between the United States and Porto Rico during the year following the Spanish-American War? What change has since been made? Were the reasons for the change political or economic?

2. What are the existing tariff relations between the United States and the Philippines? What do President Roosevelt and Secretary Taft recommend? Why?

3. What control has the United States over the finances

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of San Domingo? Is it a bad precedent? (Executive E. Confidential. 59th Congress, 2nd session).

4. An American writer attempts to prove that the tariff of 1890 was more of a free trade law than the tariff act of 1883 because the free list of the former contained more articles than the free list of the latter. Wherein lies the fallacy of such a presentation?

5. There is an exception to the statement in the text that the Porto Rican tariff is the same as the American law. An import duty is levied on coffee in Porto Rico and it is on the free list in the American tariff law. How do you account for this?

CHAPTER VIII.

CUSTOMS

AD VALOREM, SPECIFIC AND DIFFERENTIAL DUTIES

59. Introduction.—As already stated there are two kinds of customs duties, *ad valorem* and *specific*. The former are duties based on values and measured in percentages. Thus in the American tariff act we find that pearls in their natural state pay a ten per centum *ad valorem* duty when imported which means that for every dollar's worth brought into the country the government exacts a payment of ten cents. *Specific* duties are those based upon a unit of weight or measure and are measured in payments per pound, ton, kilogram, dozen, quart, liter, etc. In the American tariff law, for example, lard pays an import duty of two cents per proof gallon. Sometimes there is a combination of both kinds of duties which are generally spoken of as "compound" duties. This is especially common in the American law. Saccharine, for example, pays an import duty of one dollar and fifty cents per pound and ten per centum *ad valorem*.

All tariff laws do not have the same general character. The most common kind, however, is a tariff in which *specific* import duties predominate. This characterizes the tariff laws of most of the European

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tates, many of the Central and South American countries, including Mexico, and that of the South African Customs Union. The next most common class of customs tariffs is that in which ad valorem import duties largely prevail. In this category belong many of the South American states, Canada, Newfoundland, New Zealand, Japan, Egypt, Morocco, and Bulgaria. The United States really belongs in this class although the large number of specific and compound duties almost places this country in a class by itself.¹ Several minor states have a general import and export rate which is largely or entirely ad valorem. In this class belong the Malay States, Dutch East Indies, British North Borneo, Cyprus, Sudan and Turkey. The last two have each a general eight per cent. import and a one per cent export duty. Likewise some of the smaller states including Persia, Servia and French Indo China have export and import duties in which specific duties predominate.

60. Advantages and Disadvantages of Ad Valorem Duties.—The principal advantage of ad valorem rates is their adaptability to changing market conditions. The amount of the duty increases or diminishes with the rise or fall in the price of the imported article. Likewise the finer or higher priced goods pay proportionally the same as the

¹The complexity of the American tariff law is shown from the fact that there are approximately 6500 ad valorem, 3000 specific and 1600 compound rates besides nearly 2000 enumerated rates in the free list. Exclusive of the latter, therefore, there are over 11000 different rates of duty in the present law. (See U. S. Tariff Law published in special consular reports.)

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lower grades. The duty is thus equitable when properly applied. There are, however, many serious disadvantages in the use of ad valorem rates. They are difficult and expensive to administer both because of the temptations of importers to undervalue their goods in order to escape the full payment of duties and because of the large number of expert officials required to determine properly the various rates of duties. Many opportunities for fraudulent practices are open not only to importers but also to government officials and although very severe penalties have been enacted to overcome these evils they have not proven entirely effective. One of the difficulties in applying ad valorem duties is the determining of a correct value basis as expressed in price. Should the latter be the price at the place of purchase, at the port of departure or at the port of entry? Should the price include storage, packing or transportation costs? Should it be the wholesale or retail price? The American Customs Administration Act stipulates that ad valorem rates "shall be assessed upon the actual market value or wholesale price of such merchandise as bought and sold in usual wholesale quantities, at the time of exportation to the United States, in the principal markets of the country from whence imported, and in the condition in which such merchandise is there bought and sold for exportation to the United States, or consigned to the United States for sale, including the value of all cartons, cases, crates, boxes, sacks, and coverings of any kind, and all other costs, charges, and expenses incident to placing the mer-

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merchandise in condition packed ready for shipment to the United States, and if there be used for covering or holding imported merchandise, whether dutiable or free, any unusual article or form designed for use otherwise than in the bona fide transportation of such merchandise to the United States, additional duty shall be levied and collected upon such material or article at the rate to which the same would be subject if separately imported." (Sec. 19).

61. Advantages and Disadvantages of Specific Duties.—The chief advantage of specific duties rests in the simplicity and cheapness of their administration. Customs officials have, for the most part, only to weigh, measure or count the merchandise crossing the national boundaries—a procedure involving but little technical skill, expense or opportunity for fraudulent practices and aiding commerce by the speed of its execution. The principal disadvantage of specific duties is that they are inequitable. Coarser and cheaper goods are generally taxed proportionally higher than the finer and more expensive articles, while the opposite rule should prevail. For example if imported cotton cloth were taxed ten cents a yard regardless of quality the cloth worth five cents per yard would be paying a duty equivalent to two hundred per cent. while the material worth fifty cents per yard would escape with a duty of only twenty per cent. This inequality is partially obviated by arranging merchandise in groups based upon the degree of manufacture, the fineness of the goods or upon some other common basis and applying special rates to particular groups.

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Some such general method of grouping is characteristic of nearly all customs tariffs.

An important point to consider in regard to specific duties is whether they are levied on net or gross weight or measure. The duty ought naturally to be based upon the article exclusive of the packing but as the removal of the latter for the purpose of obtaining net weight or measure would often be a serious damage to the goods or would delay commercial transactions, many tariff laws make a legal allowance known as tare, on various kinds of articles.

62. General Method of Tariff Administration.—

For the purpose of guarding general interest, especially the financial interests of the government and the protected interests of producers, various methods of tariff administration have been adopted in different countries to carry out the purposes of the law regarding the levying of correct duties, the settlement of disputes regarding customs matters and the like. In the United States tariff administration rests primarily with the Treasury Department and secondarily with the State Department. The courts also play an important rôle. All imported goods exceeding one hundred dollars in value must be accompanied by an invoice sworn to before an American consul at the place of shipment. These invoices are usually made out in triplicates, one copy being kept on file in the consulate, one being sent to the collector at the port of entry in the United States, and the third being given to the exporter for transmittal to the importer or con-

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signee. If goods are destined for an interior point, a fourth certified invoice is issued to the shipper who in turn sends the invoice he receives from the consul to the merchant to whom he has sold the goods. The invoice, together with any information obtained from other sources such as trade reports, government statistics and American treasury experts stationed in foreign countries, furnishes the basis of valuation for purposes of levying the duty. The value of all goods imported in the United States is determined, in the first place, by a local appraiser. In case of dissatisfaction either on the part of the collector of customs or of the importer, appeal may be made to a general appraiser and finally to a board of three general appraisers whose decision "*shall be final and conclusive as to the dutiable value of such merchandise against all parties interested therein.*" As regard the *rate and amount of duties* the decision rests, in the first instance, with the collector of customs. In case of dissatisfaction on the part of the importer or consignee with his conclusion the facts may be referred to a board of three general appraisers. From its decision appeal may be made either by the government or by the importer to the circuit court of the United States within the district in which the matter arises "*for a review of the questions of law and fact involved in such decision.*" This conclusion is final unless the court or judge "*shall be of the opinion that the question involved is of such importance as to require a review of such decision by the Supreme Court of the United States.*"

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Some countries, notably Germany, Spain and Austria have public mercantile commissions which render assistance, in an advisory way, in matters of tariff administration, especially as regards dutiable values. Appointments to these commissions are usually made by the Minister of Commerce upon the recommendations of chambers of commerce.

63. Payment of Customs Duties.—As a general rule the standard money of a country is receivable in payment for its customs duties. Some states, however, having depreciated currencies, require these taxes to be paid in gold. One result of this is virtually to raise existing imposts, a condition which has brought ineffectual remonstrances especially from countries having commercial treaties with the offending nation. When Russia in 1877 and Austria-Hungary in 1878 enacted that imposts be paid in gold the effect was to enhance the prevailing rates of duty thirty-three and fifteen per cent. respectively. Another result of requiring gold payments in depreciated currency countries is to increase the gold reserve, a situation especially advantageous for countries having interest to pay on foreign loans. This was practically the situation in the United States as a result of the Civil War. At that time large amounts of depreciated paper money were issued which were receivable in payment for all public dues *except duties on imposts* and of all claims against the United States *except interest on the public debt*. This was virtually a requirement that import duties be paid in coin. However, in 1879 when the so-called “greenbacks” or United

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States notes came to a par with gold the requirement of coin payment was revoked by an order of the Secretary of the Treasury so that at the present time not only gold coins and silver dollars but also "United States demand notes, United States Treasury notes, and certificates of deposit of gold coin and bullion and of standard silver dollars of the United States are receivable for duties at their nominal value in unlimited amounts."

64. Discriminating Duties on Vessels and their Cargoes.—Duties of this kind are such as discriminate in favor of domestic vessels and their cargoes by levying a higher rate of duty upon foreign than upon native ships and cargoes. The Navigation Act of Cromwell aimed to foster the carrying trade of England by forbidding the importation of merchandise except in English vessels or in ships belonging to the exporting country, but later this prohibition was replaced by discriminating duties. Such discriminations formed a prominent feature of the Mercantile System but have largely lost their importance in existing commercial politics. France however, and in a less degree Spain, have comprehensive systems of surtaxes upon goods indirectly imported. Somewhat analogous to this are the tariff reductions which some states make on goods imported by water rather than by land. For instance tea and coffee imported into Austria-Hungary at the ports of Trieste and Fiume pay a lower rate than when imported at the land frontier, the purpose of course being to divert traffic from the northern ports of Europe.

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In the United States one of the first acts of the government under the Constitution was to pass a discriminating tonnage law. In the present American tariff act a discriminating duty of ten per cent. in addition to the duties imposed by law, is levied upon merchandise imported into the United States in foreign vessels but this law is unimportant since it does not apply to the merchandise imported in foreign vessels entitled by treaty to be entered in the ports of the United States upon the payment of the same duties as in the case of American vessels (Section 22). Likewise imported merchandise is subject to forfeiture unless entered in vessels of the United States or in such foreign vessels as belong to citizens or subjects of that country of which the goods are the growth, production or manufacture or from which such goods can only be or most usually are first shipped (Section 23 of Tariff Act of 1897). This provision has but little value being inapplicable to the vessels or goods imported in vessels of a foreign nation which does not maintain a similar regulation against vessels of the United States (Section 24). A provision of the law, however, should be noted which stipulates that an additional duty of ten per cent. must be paid on goods "which, being the production or manufacture of any foreign country not contiguous to the United States, shall come into the United States from such contiguous country." The purpose of this law is to divert from Canadian railroads goods imported into Canada but destined for consumption in the United States.

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65. Interstate Preferential Duties.—Preferential duties may have for their purpose the development or maintenance of closer economic or political relations between certain states. They may be employed when two countries are politically united but the peculiar character of their economic development prohibits entire freedom of trade as was the case, until recently, in Norway and Sweden. Sometimes they are resorted to where free trade between two states or territories is contemplated but can only be brought about gradually without disturbing industrial conditions. Thus free trade between the United States and Porto Rico and also between Russia and Finland was preceded by moderate interstate tariff reductions. Likewise two or more politically independent states may have such close commercial relations that complete economic separation would lessen their industrial independence. This is the explanation for the existing preferential customs duties between Spain and Portugal. Finally the best example of interstate preferential duties exists in the so-called customs union or Zollverein in which several independent states unite upon a basis of free trade among themselves, and a common customs tariff for commercial intercourse with foreign countries. The most conspicuous example of such a union was the German Zollverein which was formed in 1834. Such federated or confederated states as Austria-Hungary, Australia, South Africa, Germany, Dominion of Canada and the United States are in reality great tariff unions. The American Constitution gives Congress the right

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to regulate commerce with foreign nations and among the several states, the only restriction being that "all duties, imposts and excises shall be uniform throughout the United States." The other customs unions are organized on much the same basis as in the American union. Such a development presupposes on the one hand a partial loss of individual state sovereignty and on the other hand the growth of centralized political authority.

66. Colonial Preferential Duties.—For the purpose of fostering commercial and political relations between independent states and their colonies preferential customs and tonnage duties were universally applied during the colonization period which followed in the wake of the great discoveries. Spain held to this policy until all her colonies were lost and Holland governed her East Indian possessions upon a preferential basis until 1872. France has in recent years resorted to a very comprehensive plan of granting more favorable tariff rates on colonial than on foreign imports. England's policy during the sixteenth and seventeenth centuries was much the same as that of other European colonial powers excepting that it was not so vigorously applied. During the first half of the nineteenth century, however, her colonial preferential duties were abolished and trade with her colonies has been since then open to other countries upon the same basis as that enjoyed by the mother country. In recent years, however, intense international competition and the growth of protection not only in foreign countries but also in British colonies has threatened England's

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commercial supremacy and has evoked an agitation favorable to preferential customs duties between Great Britain and her colonies. In fact some of the latter, notably Canada, South Africa, and New Zealand have already embarked upon the plan and England is considering whether she can reciprocate. The leader of the movement is Mr. Joseph Chamberlain. The United States in its recently acquired colonies inaugurated the policy of preferential treatment. In the case of Porto Rico this has developed into free trade.

67. Countervailing Duties.—Some countries pay premiums or bounties to domestic producers on the exportation of certain products. The effect in many instances is to discourage the production of such articles in the importing country. If the latter maintain a protective import duty it may be rendered ineffective by such an export bounty. Until recently there have been export bounties on beet sugar in many European countries. These have been offset in the United States and in British India by countervailing duties the purpose being to protect the domestic sugar producers. Section five of the American tariff act states "that whenever any country, dependency, or colony shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency or colony, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States . . . there

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shall be levied and paid an additional duty equal to the net amount of such bounty."

68. Retaliatory Duties.—Retaliatory duties are rates higher than those contained in the regular tariff and are levied in exceptional cases upon goods imported from certain countries. They may be employed because one nation objects to what it regards an unreasonable tariff law of another country, as was the case in the tariff war between Austria-Hungary and Roumania (1886-1893), the former nation objecting to the exceptionally high tariff of the latter. Sometimes such duties are applied because one nation considers that other countries have been treated more favorably than itself. This was the reason for the Russian-German tariff war (1893-1894). Russia being the aggrieved party. Again retaliatory duties have been used after a commercial treaty has lapsed and attempts to negotiate a new one have resulted in failure owing to unreasonable demands or treaty disinclination of one of the interested parties. In this category belong the tariff wars between France and Italy (1888-1892), France and Switzerland (1893-1895), and Germany and Spain (1894-1895).

The power of applying retaliatory duties is generally placed, by legislative enactment, in the hands of the Executive. Section five of the American law of March 3, 1891, prescribes that in case a foreign country unjustly discriminates against American products, the President "may direct that such products of such foreign states so discriminating against any product of the United States as he may

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deem proper shall be excluded from importation to the United States." Similar regulations exist in many other countries but generally the power of the Executive is not so extensive as in the American law, often being shared by one or both of the legislative houses or limited as to the height of the additional duties that may be levied. The German law, which may be taken as a type, reads as follows: "Goods proceeding from countries that treat goods or ships of German origin less favorably than those of other countries, may in so far as existing treaties are not thereby violated, be burdened with a surtax ranging up to one hundred per cent. of the tariff duty imposed on such goods, and goods free of duty may, in virtue of a tariff made under the same conditions, be burdened with a duty up to twenty per cent. ad valorem. The levying of any such surtax will be enforced by an Imperial order after the consent of the Bundesrath has been obtained to it. The Imperial order is to be communicated at once to the Reichstag, or if the Reichstag be not in session, when it next meets. The same shall no longer be enforced when not approved by the Reichstag."

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SUGGESTIVE TOPICS AND QUESTIONS

1. Suppose the duty on certain goods imported into the United States exceeds the value of the goods plus the bond guaranteeing the payment of the duty and the goods and bond are sacrificed; does this free the importer from liability? (U. S. v. Cobb, 11 Fed. Rep. 76).

2. Suppose the goods are accidentally destroyed after importation, is the importer relieved thereby from the payment of duty? (Wolfe v. Howard Ins. Co. 1 Sandf. (N. Y.) 124, affirmed 7 N. Y. 583; Ferry v. U. S. (C. C. A.) 85 Fed. Rep. 550.

3. May an import duty be levied upon merchandise shipped from one domestic port to another when the ves-

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sel has touched an intermediate foreign port? (Am. and Eng. Encyc. Law, XXIV., p. 892).

4. Customs duties are levied in the United States only on goods imported from foreign countries. Are the Philippines and Porto Rico foreign countries? If not may we levy duties on goods imported from thence? The Constitution states that "all duties, imposts and excises shall be uniform throughout the United States." Are the Philippines and Porto Rico a part of the United States and if so must not the same rate of import duties be applied to them that are collected in the United States and must there not be free trade between them and the United States? Consult the fol: *De Lima v Bidwell*, 182 U. S. 243; *Dooley v. U. S.*, 182 U. S., 222; *Armstrong v. U. S.*, 182, U. S. 243; *Goetze v. U. S.*, 182, U. S., 221, reversing 103 Fed. Rep. 72; *Fourteen Diamond Rings v. U. S.*, 183, U. S., 176; *Downes v. Bidwell*, 182, U. S., 244. See also Willoughby's Amer. Con. System Chapters X.-XIV.

5. Estimate the loss of revenue to the United States government for any one year on the supposition that imported goods paying an ad valorem rate of duty are undervalued fifty per cent. (Statist. Abs. of U. S.).

6. Are there any provisions in American law regarding retaliation besides those mentioned in the text? (See Tariff Act of 1897).

7. What is the meaning of Pan-Americanism? Is there any likelihood of an economic union of the States of North and South America? Since the independence of the South American states how has their trade with the United States increased as compared with the increase of the foreign commerce of the United States, (a) with the world, (b) with Europe and (c) with Great Britain? (Annual volume on Commerce and Navigation; *World's W. Ja.* '03; *N. Am. R.*, Feb. '02).

8. What is the character of modern smuggling? (*Forum* II., 69, 1886).

9. What are the arguments in favor of a British preferential tariff? (Ashley's Tariff Problem). What are

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the arguments against? (Money's Elem. of Fiscal Problem; Smart's Return to Protection).

10. What has been the effect of the Canadian preferential tariff on the trade between Canada and Great Britain? (Herbert and Montague, Canada and the Empire; also Smart's Return to Protection, Ch. XXIII.).

11. What are the penalties in the United States for under-valuations? Does the law seem to be severe enough? (Tariff Adm. Act.; Cus. Reg. of U. S.; Goss' Tariff Admin. of U. S.).

12. How are values determined in foreign customs tariffs? (Kelley's Tariffs of World; also special Con. Rep. of U. S., 1892-1900).

13. What do consular invoices contain? Suppose it is impossible for an importer to produce the sworn invoice? (Tariff Admin. Act and U. S. Customs Regulations).

14. Are the following legal tender for the payment of customs duties—Trade dollars, fractional currency, bank notes? (Cus. Reg. of U. S.).

15. Make a study of the customs tariff law of any one country with reference to the grouping of duties. (Kelley's Customs Tariffs).

16. Give a careful account of one of the tariff wars spoken of in the text (consult general bibliography of the chapter).

17. Why was the countervailing duty in the United States tariff act of 1890 changed in the law of 1897? (For. Rel. of U. S., 1894-1898).

18. Is there any difference between discriminating and retaliatory duties?

19. What are the regulations in Italy, France and Switzerland regarding retaliatory duties? (See Kelley's Tariffs of World).

20. Suppose that a voyage is changed and a ship enters Galveston instead of New York while the consular invoice is sent to the collector at the latter place, what happens? (Customs Regulations of U. S.).

CHAPTER IX.

CUSTOMS

ADMINISTRATIVE INSTITUTIONS

69. Ports of Entry and Ports of Delivery.—

As an aid to tariff administration laws generally provide that imported goods may be entered or delivered only at certain specified places. A *port of entry* is therefore any locality, generally on the coast or frontier, where imported goods may be entered, while a *port of delivery* is either a border or inland point which a government⁴ designates as the place where goods may be delivered to the importer upon the payment of customs duties and other charges. All ports of entry are generally also ports of delivery, but all ports of delivery are not ports of entry. According to the customs laws of the United States, merchandise on reaching the port of delivery may be entered for immediate consumption in which case it is appraised, classified and delivered to the importer on payment of the estimated duty, or it may be entered in bond for appraisement and storage in any public or private bonded warehouse which may be at the port of entry or at one of the numerous ports of delivery in different parts of the United States.

70. Meaning and Advantages of Bonded Warehouses.—A bonded warehouse is a warehouse in

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which articles are stored under bond, free of taxes or duties except incidental storage dues, while either waiting to be entered for domestic consumption upon the payment of the regular internal revenue taxes or import duties, or to be forwarded to foreign countries without the payment of taxes or duties. The warehousing system, which has generally been adopted by leading commercial nations, is a credit system whereby the government extends the time for the payment of duties or taxes upon goods, in the meanwhile retaining possession of the goods as security. Such a system has an important economic advantage to manufacturers or importers since immediate payment of duties or taxes would often involve large and unremunerative investments of capital. It is also a plan which offers great convenience since the importer or manufacturer has access to the goods and may dispose of them at any time by paying the duties, excises and storage dues if sold at home, or simply the storage dues if sold abroad. There are two general classes of bonded warehouses, those for imported goods and those for domestic products. The articles most prominently identified with the latter class in the United States are those of distilled spirits and of tobacco. The bonding of commodities under the internal revenue system is, however, only indirectly related to foreign commerce.

71. United States Bonded Warehouses for Imported Goods.—The warehousing system was adopted in the United States in 1846, but has been modified from time to time by subsequent legisla-

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tion. It did away with the method of allowing credits on imports, the immediate payment of duties being postponed only on those goods which are stored in bonded warehouses. The Customs Regulations of the United States contain the following classification of bonded warehouses:

Class 1. Government bonded warehouses which are owned or leased by the government and exist in those ports where there are no private bonded warehouses or where they are inadequate.

Class 2. Importers bonded warehouses which contain exclusively the goods of large importers. These are private bonded warehouses and the owner must pay for the services of the customs officials in charge of them, as in the case of all private bonded warehouses.

Class 3. Private bonded warehouses used for the general storage of imported goods. Under government supervision these do a large part of the warehousing business.

Class 4. Private bonded warehouses consisting of yards or sheds for the storage of wood, coal, molasses, sugar in hogsheads or in tierces, railroad, pig and bar iron, and other heavy articles.

Class 5. Private bonded warehouses consisting of bins or parts of buildings or of elevators to be used for the storage of grain.

Class 6. Private bonded warehouses for the manufacture for exportation, of articles made in whole or in part of imported materials; or of materials subject to internal revenue taxes; also for the

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storage and cleaning of imported rice intended for exportation.

Class 7. Private bonded warehouses for smelting and refining imported ores and crude materials intended to be exported in a refined but unmanufactured state.

Finally, in this connection mention should be made of the bonded railroad cars which might be called warehouses on wheels. While goods are in transit such cars serve the purpose of bonded warehouses.

72. General Regulations Regarding United States Bonded Warehouses for Imported Goods.

—The regulations regarding the reception and custody of goods are substantially identical in all classes of bonded warehouses in the United States. Some articles such as perishables and explosives are not entitled to storage. The importer or owner of the stored goods may withdraw them from bonded warehouses upon the payment of all charges at any time during the credit period of three years provided by law. Goods not withdrawn within that time are sold by the Government, the proceeds of the sale being used to defray the accruing charges, and the balance, if any, being returned to the owner or importer of the goods. Should the proceeds be insufficient to pay the charges, the balance is collected upon the warehouse bond, by suit if necessary.

73. Free Ports.—A free port is a maritime commercial centre whose harbor is open to the commerce of the world free from customs supervision

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or from the payment of customs duties. In these ports ships may load or unload, manufacturing may be carried on or goods may be bought or sold without interference from the fiscal authorities except in the way of regulations to enforce payment for the rendering of specific services such as wharfage, storage and the carrying out of police and sanitary measures. Free ports arose in the beginning of modern history when states were small and governments decentralized, in order to facilitate the increasing transit trade which resulted from the growth of commerce after the Crusades and the great maritime discoveries. Italy was the first country to adopt this institution, most of her important commercial cities becoming free ports during the sixteenth and early part of the seventeenth centuries. All her free ports were, however, abolished in 1865, soon after Italian unity had been established. In France Colbert accepted the principle of free ports and applied it to Marseilles in 1669. Other French cities were made free ports during the eighteenth century, but all were abolished at the time of the Revolution, and although temporarily restored in 1814 they did not long survive. In Austria and Hungary Trieste and Fiume were declared free ports in 1719. The free port of the former was temporarily abolished during French domination, but was restored in 1806. In 1891 both cities became incorporated in the Austro-Hungarian tariff union. In Germany Altona was the first free port (1664). The Hanseatic cities of Lübeck, Bremen and Hamburg were politically in-

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dependent for centuries and were practically free ports. After 1834 there was earnest agitation for their incorporation into the German Zollverein. Lübeck joined the tariff union of the North German Confederation in 1867, and Hamburg and Bremen were incorporated into the tariff union of the German empire in 1888. Other free ports have at different times been temporarily established in Belgium, Roumania and Russia. The only English free port in Europe is Gibraltar. The institution has, however, been employed in several European colonies or settlements, the most noteworthy instances being Aden, Singapore and Hong Kong.

74. Free Districts.—It appears from the foregoing that free ports have been generally abolished in European countries since they hinder the growth of nationality. They have been replaced by the bonded warehouse system and by the free district. The latter is a space or zone within which commercial operations may be carried on without the payment of customs duties and without active interference on the part of customs authorities. A free district is therefore a part of a free port, differing from the latter principally by being much more restricted both as to area and as to scope. It must, however, be sufficiently large to fulfill all local requirements affecting commercial operations. In most of the European countries where free ports existed, free districts have taken their place. Such institutions have been established in the important German coastal cities, in Copenhagen, and a movement is under way looking toward their formation

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in France, Belgium and other countries. They are generally supplemented by the bonded warehousing system which is practically the only plan in vogue in England and in the United States.

75. Proposed American Free Districts.— There are no free districts in the United States, such as are found in European countries. Their advisability, however, has been more or less discussed. Mr. Shaw, late Secretary of the Treasury, is an advocate of a "bonded zone for export," an institution somewhat analogous to the free district. His scheme, as recently published in the newspapers, is as follows:

"Suppose instead of a bonded factory, we bond a well defined section of land containing, if you please, several thousand acres. Within this bonded territory all kinds of factories could be entered without the payment of duty. This port should, of course, contain no dwellings. I would allow free coal and every other element of manufacture excepting labor to be entered free. In other words, this free port should be a great consumer of American labor, the product of which, under the most encouraging conditions, should be for export and for export only. If it was removed from the port for the purpose of domestic consumption it should pay the same duty as if imported from abroad. I do not see wherein the American people could be harmed by such a policy, and it would result in furnishing employment to those who choose to live beneath our flag, consume our products and work at the American scale of wages. All New England

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would be benefited by such a port somewhere on the north Atlantic coast. A similar port should be established in the vicinity of Norfolk and another on the gulf. It will take time to develop the thought, but it is in absolute harmony with the present bonded warehouse, bonded factory and drawback policy, and we have the example in the free ports of Germany."

76. Frontier Traffic in the Narrower Sense.—National boundary lines have often been established more with reference to political considerations than to the economic interests of those living on the frontier. Sometimes such lines divided individual properties so that the same person owned land in two different states. When customs administration was ineffective and smuggling was more the rule than the exception, the inconvenience of artificial boundaries was easily evaded, but such conditions became incompatible with the development of national industrial life. Special privileges, however, have been granted in many instances to those living on the frontier, such concessions generally securing free transit over the border and exemption from customs duties on certain articles within a definitely prescribed zone on both sides of the boundary. Such regulations are found in many general tariff laws and in commercial treaties between several of the countries of Western Europe. These provisions are spoken of as regulating "frontier traffic in the narrower sense" in contradistinction to "frontier traffic in the wider sense," or border concessions

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which have been extended to include an entire country.

77. Mexican Free Zone.—The Mexican Free Zone, which was recently abolished, was a strip of land about twelve and one-half miles wide extending along the entire northern boundary of Mexico. It was not strictly a free zone since goods entering it paid eleven and one-half per cent. of the regular tariff, the balance being paid if they were conveyed to any other part of Mexico. It was originally established along a part of the northern boundary in 1858 and extended in 1885 across the entire frontier of the North in order to discourage the emigration of Mexicans to the United States. Formerly there were much higher federal and state taxes in Mexico than in the United States, the result being that the cost of living in the Mexican towns along the border was more than in the neighboring Texan towns. At first all foreign goods entering the Zone were exempted from all duties, excepting State and Municipal taxes, but when the United States raised its customs duties the rate payable on entering the Free Zone was gradually raised to eleven and one-half per cent. of the regular Mexican tariff rates.

Furthermore, the fall in the price of silver acted as a protective tariff, even in the Free Zone, and the Mexican Government in 1891 decided that goods manufactured in the Zone should pay duty when imported into the interior. This provision practically put an end to manufacturing in the Free Zone since the advantage of low cost of raw materials is

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balanced by the two high tariff walls by which the Zone is hemmed in.

78. Treaty Ports.—Treaty ports are ports open to commerce by virtue of international agreements. Such ports permitting trade between the Occident and certain Oriental centres in China and Japan have been secured through numerous treaties since the middle of the nineteenth century. The first treaty ports in China were by virtue of the Nanking treaty of 1842 between the Celestial Empire and Great Britain. These concessions were also granted to other nations, article III of the treaty of 1844, between the United States and China, stipulating that "the citizens of the United States are permitted to frequent the five ports of Kwang-chow, Amoy, Fuchow, Ningpo and Shanghai, and to reside with their families and trade there, and to proceed at pleasure with their vessels and merchandise to and from any foreign port and either of the said five ports to any other one of them." At present Chinese treaty ports number over thirty. Japan was also open to foreign commerce through treaty ports, her commercial treaty of 1854 with the United States paving the way by opening the ports of Simoda and Hakodadi to American commerce. Since 1899, however, Japan has been recognized as on an equality with the other civilized powers, and her entire country has been thrown open to foreign countries.

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D. Grunzel, Pt., II., Ch. VII.

SUGGESTIVE TOPICS AND QUESTIONS

1. When importer's goods are deposited in a private bonded warehouse who determines the storage charges? (Cus. Reg. of U. S., Art. 974) Who is responsible for the safe-keeping of such goods (id)?

2. In the selling of bonded goods by the Government what are the accruing charges (Cus. Reg. of U. S., Art. 1229)?

3. Suppose that while a duty-paying commodity is in a bonded warehouse a law is passed abolishing or lowering the rate of duty, could the owner of the bonded goods claim the benefit of this? Would he be allowed to export the goods and then reimport them in order to obtain the benefit of the modified duties (Art. "Warehousing System" in Univ. Cyc.)?

4. In 1861 a severe attack was made in Congress on the warehousing system as being merely another method of giving credit on imports. How was this answered? (Goss' Tariff Admin. of U. S., p. 57).

5. Is the collector of customs responsible for goods lost

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while in a bonded warehouse? (*Brissac v. Lawrence*, 2 Blatchf. U. S. 121).

6. If the custom-house officials unlawfully allow the goods to be withdrawn from a bonded warehouse without full payment of duty is the owner relieved of liability for such duties? (*Minturn v. U. S.*, 106 U. S., 437; also *Am. and Eng. Encyc. Law*, XXIV., p. 912).

7. Did the institution of free ports represent an exception to the mercantile system?

8. What class largely predominated in the maritime cities during the Sixteenth and Seventeenth centuries? Did this class generally favor protection or free trade? Why?

9. What are the regulations in the German tariff of Dec. 25, 1902 regarding frontier traffic (Sec. 6, Art. 1, *Mon. Sum Com. and Fin.*, Mr. '04, p. 3401)?

10. Are foreign goods exempted from the payment of import duties in a treaty port?

11. What credit system in regard to imported goods was in vogue in the United States prior to the law of 1846 establishing the bonded warehouse system? (*Mon. Sum. Com. and Fin.*, Oct. '03).

12. What are the treaty regulations between Austria-Hungary and Germany and between France and Belgium regarding frontier traffic? (*Grunzel*, Pt. II., Ch. VII.)

CHAPTER X.

CUSTOMS

INTERNAL TAXATION: EXPORT AND IMPORT FAVORS

79. Internal Taxes.—Customs and tonnage duties are not, as has been intimated, the only forms of governmental receipts. States like England and Prussia derive a large revenue from taxes on incomes. The American federal government has resorted to this form of taxation at different times, but a federal income tax was recently declared unconstitutional by the Supreme Court. The decision, however, was very close and it is thought by many that a new law can and will be enacted which will meet the constitutional objection of the Court. There are also poll or capitation taxes as well as taxes on transactions. The former were common in many of the states of the American Union, but they have gradually disappeared in most of them. The latter have been employed by the federal government in times of emergency such as during the Civil and Spanish-American wars, when a stamp tax was levied on bills of exchange, transfers of stocks and bonds, bank checks, etc. The general property tax is universal in the United States, but it is at the present time a local or state and not a federal form of taxation. Finally, excises or taxes

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levied on certain articles of consumption, such as distilled and malt liquors and tobacco, form a very important source of income in nearly all countries. In the United States they comprise nearly one-half of the receipts of the federal government. During the eight year periods, 1890-1897 and 1898-1905, the revenue from these sources averaged forty-one and forty-seven per cent. respectively of the total net ordinary receipts, while for the same periods the percentages for the customs revenue averaged forty-two and thirty-five per cent.

80. Internal Taxes on Imported Merchandise.—When articles subject to internal taxes are imported, such taxes are levied on them in addition to the regular import duties. These excises, however, are not usually included in the general tariff act, but must be paid, as far as possible, in the same manner as similar taxes levied on domestic articles. In the United States the excise on tobacco and certain kinds of liquors is paid in the form of a stamp which must also be affixed to the imported article before the latter may enter the domestic market. There are also certain regulations regarding the packing of such imported merchandise, the general rule being that they must be entered in those forms in which the domestic article is generally offered for sale.

The levying of internal taxes on foreign imported merchandise is, to a considerable extent, regulated by international agreement. In this matter one of two methods generally prevails. Either nations mutually agree that they will exact of each other no

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other or higher taxes, charges or requisitions than are levied on the property of their own citizens or subjects, or they stipulate that they will exact of each other no higher duties than are levied on the property of citizens or subjects of any third nation. The former plan usually characterizes the commercial relations of modern industrial nations, while the latter is more often found in commercial regulations between advanced and backward countries. Sometimes states agree to limit the number of articles that may be subjected to an excise tax so far as commercial relations with certain other countries are concerned. Austria-Hungary, for example, exacts such a limitation in her treaties with the Balkan States. While states are supposed to have a free hand in regard to taxing articles whose manufacture or sale they monopolize, there are certain limitations as to the number of such articles in the commercial treaties between Austria-Hungary and the Balkan countries.

81. Internal Taxes on Domestic Products Destined for Exportation.—An internal tax on a domestic article which is exported operates in the same way as an export duty. It makes the article more expensive and therefore more difficult to sell in the competitive markets of the world. When sold abroad the tax on such a commodity is usually paid by the domestic producer or the exporter excepting when the exporting country possesses a world monopoly.

As the general policy of modern states is not to hinder but to facilitate foreign sales, domestic prod-

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ucts destined for exportation are usually exempted from the payment of internal revenue taxes. Such exemptions involve many administrative difficulties and are only feasible when goods are produced in large quantities and where the industrial organization is fairly well centralized, as in the manufacture of tobacco, malt and distilled liquors, sugar, etc. As regards the United States the customs regulations prescribe that distilled spirits and tobacco intended for immediate exportation may be withdrawn from bonded warehouses or manufactories without paying internal revenue duties "under such regulations, and after making such entries and executing and filing with the collector of the district from which the removal is to be made, such bonds and bills of lading and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

82. Drawbacks.—A drawback is a repayment, in whole or in part, of the customs duties paid on imported merchandise when the same is re-exported. The repayment may be upon articles re-exported in the same condition as imported. Such drawbacks were formerly common, but now they are less important owing to the development of the bonded warehouse system, better means of transportation and communication and more efficient tariff regulations especially as regards the transit trade. Drawbacks may also be applied to imported raw materials or half-manufactured products when the same are re-exported in a more advanced state. This form

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of a drawback is becoming more and more important in modern commercial politics.

The drawback, like the remission of the internal tax on goods destined for exportation, facilitates exportation. It places the domestic manufacturer on the same basis as the foreigner as regards the cost of his raw materials. In order to apply the drawback the identity of the merchandise must be maintained and the period between importation and re-exportation must be limited. The difficulties involved in this procedure have led to the supplanting of the identity principle by the "equivalent principle" for certain commodities such as wheat in Germany. By this method the importer upon paying the customs duties receives a receipt which may be transferred, the holder being entitled within a certain period to obtain a repayment of the customs duty upon the exportation of the quantity of merchandise represented by the receipt. This system is more or less common in Europe, but is open to certain abuses.

83. Drawback System in the United States.—The laws of the United States prescribe four general cases of drawbacks.

A. Merchandise upon which duties have been paid may remain in bonded warehouses at the expense and risk of the owners, and if exported directly therefrom within three years shall be entitled to drawback. (R. S. 2977; Customs Regulations 1114.)

B. "When imported materials on which duties have been paid are used in the manufacture of arti-

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cles manufactured or produced in the United States there shall be allowed on the exportation of such articles a drawback equal in amount to the duties paid on the materials used less one per centum of such duties. When the articles exported are made in part from domestic materials, the imported materials, or the parts of the articles made from such materials, shall so appear in the completed articles that the quantity or measure thereof may be ascertained. (Tariff Law, Sec. 30; Cus. Reg. 1136.)

C. Exporters of meats which have been cured in the United States with imported salt, are allowed a refund equal to the duty paid on the salt in amounts not less than \$100. (Tariff Law, par. 284; Cus. Reg. 1197.)

D. A drawback equal to the amount of the duty is allowed upon all coal imported into the United States and afterwards used for fuel on board American vessels propelled by steam and engaged in trade with foreign countries or in trade between the Atlantic and Pacific ports of the United States. (Tariff Law, par. 915; Cus. Reg. 1206.)

84. Direct or Open Export Bounties. A bounty is a premium paid, generally by a government, to an exporter upon certain articles of exports. Its effect, like that of the drawback, is to encourage exportation. Such premiums were common under the Mercantile System when every effort was made to increase exports, especially of manufactured goods, in order to create a favorable balance of trade. They were also employed when the domestic market was overstocked in order to prevent an inland price

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depression or in order to aid a young industry in its efforts to obtain a footing in foreign markets. In modern commercial politics, however, while premiums of this kind have played an important rôle in the case of a few articles, their use is becoming less general.

There are two classes of export bounties, direct or open and indirect or concealed. One of the best examples of the former is to be found in English commercial politics. In 1689 the British government passed a law, which was not repealed until 1814, granting an export bounty on wheat providing the domestic selling price did not exceed a certain amount. France formerly paid direct bounties on many articles, but these have been abolished excepting in the case of her deep sea fisheries. Direct export bounties have also been paid on certain agricultural exports of the Australian colonies. The most prominent export bounties during the last century have been those paid on European beet sugar. Some of these have been direct and others indirect. Germany in 1891 enacted a law allowing a direct bounty upon this commodity. The law stipulated that this bounty should be lowered in 1895 and entirely cease in 1897, but owing to the decline in the price of sugar, the prevalence of premiums in other countries and the influence of the sugar producers, the direct bounty was doubled in 1896. As far as the United States is concerned the export bounty system has never found a place in American commercial politics, although recom-

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mended by Alexander Hamilton in his famous report on manufactures.

85. Indirect or Concealed Export Bounties.—Indirect bounties have generally resulted from the inadequate administration of internal tax remission on domestic products destined for exportation. This is especially the case regarding beet sugar and, to a less extent, brandy. These articles are subject to an inland tax in most of the countries of Western Europe, the tax generally being levied upon the raw or half manufactured product. Upon the exportation of the finished article the amount of the internal tax is remitted, but the impossibility of correctly estimating this causes governments to err in favor of the exporter by refunding more than the original excise, the excess being in the nature of an indirect or concealed bounty.

This form of a bounty is well illustrated by the sugar tax in Germany where the excise was levied on the raw product of beets and remitted, when exported, on the finished product—sugar. Formerly it was estimated that it took twenty pounds of beets to make one pound of sugar, so that when a German manufacturer exported one pound of sugar the government refunded a sum equal to the excise paid on twenty pounds of beets. It is readily seen that under such conditions when, because of better methods of manufacture or of agriculture, one pound of sugar could be extracted from less than twenty pounds of beets, more was paid in the tax remission on the finished product, when exported, than was received in the form of the excise on the

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raw material. Although the government attempted to remedy this by constantly reducing the ratio, the advance in the technique of agriculture and of manufacture more than kept pace with the ratio of reduction so that there was continually paid to sugar producers a concealed bounty. This continued until 1891 when the government replaced the indirect with a direct bounty. A concealed bounty has also, in many instances, been allowed in the case of drawbacks where duties have been received on imported raw materials and more than refunded upon the re-exportation of the finished product.

It is a general policy for states owning railways to offer, in many instances, especially low rates on outgoing freight, or to exact on the other hand relatively higher rates on incoming freight. While the latter operates in the same way as an import duty and tends to discourage importations, the former acts as an encouragement to exportations and is in the nature of an indirect or concealed bounty.

While bounties are generally paid by the government they may be paid by private individuals or by corporations. Thus privately owned railroads often grant special rates on freight destined for foreign markets. An organization of Austrian cotton spinners in 1897 paid an export bounty on cotton yarn for a certain period in order to save the home market from over-production and the consequent depression in price. A somewhat similar arrangement exists in Germany among steel makers.

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86. International Sugar Bounty Question.—

The general purpose of an export bounty is to encourage exportation. Its general effect is to enhance the domestic price and to lower the price in foreign markets. An export bounty presupposes at least an equivalent protective import duty, otherwise both the purpose and the effect of the bounty are defeated. When only a few European countries paid direct or indirect export bounties on sugar and the supply of the commodity was hardly equal to the demand, sugar producers prospered and sugar consumers were not over-burdened by the tax, but when all beet sugar producing countries of Europe began rivalling each other in the payment of all kinds of bounties the effect was a large over-production with the corresponding price depression, not only in foreign but also in domestic markets. This situation was especially intensified by that form of indirect bounty whereby a proportionally higher premium was paid in many countries, notably in France, for beets with a high degree of saccharine matter or for sugar produced at least expense by means of most improved methods. These conditions involved not only a great burden to the home government, but also became a losing business to many domestic sugar producers. While foreign consumers, especially in Great Britain and her colonies and in the United States, were having the benefit of cheap sugar this was offset by certain disadvantages. English sugar refiners were driven out of business in the home market and the competition of the bounty-paid beet sugar with cane sugar

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was disastrously affecting the interests of the latter in the British West Indies and in British India. To offset this a countervailing duty was levied, as was stated in the previous chapter, on all sugar imported into British India from countries paying an export bounty. A similar provision has already been quoted from the tariff law of the United States. Because of these countervailing duties, coupled with opposition on the part of England and certain other countries, the International Sugar Conference of 1903 resulted in the virtual abolition of sugar bounties in most of the European countries.

87. Free Re-importation of Unaltered Domestic Articles.—The commercial policy of modern industrial nations generally provides for the free re-importation of certain exported domestic goods which are returned in an unaltered form. The American tariff law stated that "articles the growth, produce, and manufacture of the United States, when returned without having been advanced in value or improved in condition by any process of manufacture or other means," shall be admitted free of duty.

(a) *Empty Packages.* The law of the United States secures free importation of "casks, barrels, carboys, bags and other vessels of American manufactures, exported filled with American products, or exported empty and returned filled with foreign products."

(b) *Articles for Exhibition Purposes.* Domestic products which are exported for purposes of exhibition or sale in foreign markets, fairs, expositions,

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warehouses or the like may generally, if unsold, be returned to the country of origin without paying import duties. The purpose of such a law is to encourage exporters in their efforts to advertise their goods in foreign markets. Before exportation such articles must be properly registered and re-importation must take place within a certain period. An American law under date of May 18, 1896, enacts "that whenever any article or articles or live stock shall be sent out of the United States for temporary use or exhibition at any public exposition, fair, or conference held in a foreign country, such articles shall be entitled to be returned to the United States, under such regulations as may be prescribed by the Secretary of the Treasury, without the payment of customs duty, whether they shall be of domestic or of foreign production. Provided, that the articles of foreign production have once paid duty in the United States, and no drawback has been allowed thereon; and if any domestic articles are subject to internal revenue tax such tax shall be proved to have been paid before exportation and not refunded." Similarly the American law permits the free importation of foreign articles for purposes of exhibition.

(c) *Personal Effects of Returning Travelers.* Articles of this kind are, under certain limitations, almost universally admitted free of duty. The American tariff act provides that "in case of residents of the United States returning from abroad, all wearing apparel and other personal effects taken by them shall be admitted free of duty, without

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regard to their value, upon their identity being established, under appropriate rules and regulations to be prescribed by the Secretary of the Treasury, but no more than one hundred dollars in value of articles purchased abroad by such residents of the United States shall be admitted free of duty upon their return." (Sec. 497.)

88. Free Importation of Foreign Articles to be Re-exported After Alteration or Repair: General.—Modern tariff laws generally provide for the free importation of foreign articles which are to be re-exported after being repaired or further advanced by manufacturing processes. Less often a state permits the free re-importation of dutiable domestic articles which have been sent abroad for alteration or repair. Such provisions are usually based upon statutory law, but sometimes they are matters of international agreement. It is necessary in administering these laws to establish the identity of the imported material. In the case of fabrics imported for the purpose of bleaching, coloring, printing or the like it is possible to maintain the identity by means of official marks or stamps. Some commodities, such as iron imported to be made into machines, or grain to be milled, lose their identity in the process so that special methods must be employed such as manufacturing in bonded establishments or requiring the re-exportation of an estimated equivalent in the finished form. Another necessity in administration is the fixing of a definite period within which exportation must take place. Should such exportation not follow there must be an effective

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method of securing the duty on the imported material.

89. Free Importation of Foreign Articles to be Re-exported After Alteration or Repair: United States.—The American tariff law (section 9) prescribes “that all articles manufactured in whole or in part of imported materials, or of materials subject to internal revenue tax, and intended for exportation without being charged with duty, and without having an internal revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses.” While this is the general law there is considerable freedom allowed in its administration as regards certain articles such as grain imported from Canada and returned after being milled in the United States, railroad iron and machinery imported for repair and foreign material “used in the construction or repair of vessels built in the United States for foreign account and ownership or for the purpose of being employed in the foreign trade.” The law in these cases generally provides that such foreign material “may be withdrawn from bonded warehouses free of duty, under such regulations as the Secretary of the Treasury may prescribe.”

90. Miscellaneous “Free List” Articles.—Many modern tariff laws, as has been stated, contain a list of articles admitted free of duty. Some of these articles are sufficiently characteristic to deserve special mention. Thus there is free entry into the

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United States of any animal imported especially for breeding purposes. Likewise such articles as books, maps, music, engravings, photographs, etchings, lithographic prints, charts, regalia and gems, statuary, specimens or casts of sculpture, works of art, etc., may be imported free of duty "for the use or by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use or by order of any college, academy, school or seminary of learning in the United States, or any state or public library and not for sale." In the same category belong works of art, the production of American artists residing temporarily abroad, which may be imported without duty when presented to any public institution. In the "free list" are also found the household effects of Americans returning from foreign countries when used by them not less than one year; foreign newspapers, periodicals, and public documents issued by foreign governments, as well as books, maps, music, engravings, etchings, bound or unbound, and charts which have been printed more than twenty years at the time of importation; professional books, implements, instruments, and tools of trade, occupation, or employment in the actual possession at the time, of persons emigrating to the United States. There is also a "free list" which has formed an important feature in various treaties of reciprocity between the United States and other powers. Finally, the "free list" in the American tariff act includes "wearing ap-

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was to raise domestic prices by encouraging exports. Was this its effect? (Gibbin's Indus. Hist. of Eng., p. 199).

9. The text says, "An export bounty presupposes at least an equivalent protective import duty otherwise both the purpose and the effect of the bounty is defeated." Explain. Suppose the general domestic and foreign price at the time of the bounty is four cents per pound and (a) the export bounty is one cent with no corresponding protective import duty; suppose (b) there is an equivalent protective import duty of one cent per pound?

10. What are some of the abuses in the application of the "equivalent principle?" (Conrad and Grunzel).

11. May a returning American traveler bring in \$100 worth of foreign articles regardless of the character of such articles? Suppose such articles are intended for sale? Suppose they come under the class of prohibited imports? Suppose a person brings in \$75 worth of dutiable and \$75 worth of non-dutiable articles? (T. D. No. 24934 Jan. 7, 1904; Treas. Dept. Circular of Feb. 1st, 1904; Cus. Reg. of U. S.).

CHAPTER XI.

COMMERCIAL TREATIES

THEIR NATURE, FORM AND CONTENTS

91. Definitions.— A treaty is a compact, generally in writing, between two or more states, through their authorized agents. The terms treaty and convention are used more or less synonymously. The former, however, generally refers to the more important international agreements, especially to those which are the work of an international congress while compacts relating to subordinate questions are usually designated by the latter term. In other words a convention might be styled an informal treaty. A commercial treaty is an international agreement relative to trade. Such a treaty may be very general in character, as was the case in most of the early commercial treaties of the United States which were usually designated as treaties of "amity, commerce and navigation" or simply of "commerce and navigation." Sometimes, on the other hand, a commercial treaty is more special in character and deals only with one subject from which it derives its particular name. Thus we speak of consular treaties, trade mark treaties or conventions and the like.

92. Development of Commercial Treaties.— Commercial treaties are of very ancient origin. One

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governing the commercial relations between Rome and Carthage dates back to the year 509 B. C. However, they did not play an important rôle in commercial politics until within comparatively recent times. Beginning with the latter part of the twelfth century numerous commercial treaties governed the commercial relations of the Italian city-republics with each other and with states bordering on the Mediterranean. During succeeding centuries, with the development of trade and the growth of nationality, commercial treaties became more frequent among the Western European countries. After the fall of Constantinople into the hands of the Turks in 1453 the commercial relations between the East and the West were regulated by the so-called Turkish "capitulations" or grants made by sultans to Christian nations conferring on their subjects trading privileges in the Ottoman dominions. These concessions were usually one-sided arrangements and lacked the element of reciprocity which is characteristic of modern commercial treaties. During the seventeenth century colonial and navigation policies and the wars of Louis XIV provoked animosities and retaliatory tariffs. The beginning and close of the eighteenth century, however, were marked by the enactment of commercial treaties of a distinctly modern type. In the Methuen treaty of 1703 between England and Portugal the latter removed the prohibitions against the importation of English woollens in return for preferential treatment of Portuguese wines imported into England. In the Eden treaty of 1786 between France and England

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important modifications in the way of lower duties were made in the existing tariff rates of both countries. The United States paved the way for better international commercial relations by a series of commercial treaties with European nations immediately succeeding the Declaration of Independence and somewhat later by a series of similar commercial treaties with the South American countries after the latter had declared their independence.

93. European Commercial Treaties of the Free Trade Era.—The disturbed political conditions caused by the French Revolution and the Napoleonic wars hindered the enactment of commercial treaties during the early part of the nineteenth century. The favoring factors were the abolition of internal customs barriers, the growth of nationality and the industrial revolution with its attendant growth of foreign trade. The movement toward better international commercial relations found its best expression in the Cobden treaty of 1860 between England and France wherein customs duties were reciprocally lowered and both countries agreed to treat each other as well as either of them did other nations. Similar treaties were made about this time between most of the countries of Western Europe and together they are usually spoken of as "the treaties of the free trade era" or as "the system of Western European commercial treaties."

94. European Commercial Treaties of the Protection Era.—The reaction against free trade which developed on the European continent after the middle of the seventies reflected itself in the

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treaties of this period. In the beginning of the nineties France, after raising her tariff rates in nearly all lines, adopted the system, already in vogue in Spain, of a maximum and minimum tariff and negotiated new treaties on this basis. This plan was followed by Russia and also by some of the smaller European states. Germany about the same time (1891-1894) negotiated a series of conventions with Austria-Hungary, Switzerland, Belgium, Italy and other states wherein a maximum import duty on certain articles was stipulated. These arrangements, which were to remain in force until the end of 1903, are generally referred to as the "system of middle European commercial treaties." In 1902 Germany passed a new tariff law which differed, as has been already stated, from her former tariff law in being more protective and in establishing a minimum, instead of a maximum duty for grain. New treaties are being negotiated on the basis of this new tariff law. The European commercial treaties during the past quarter of a century are usually characterized as "treaties of the protection era."

95. What States May Negotiate Commercial Treaties?—Generally only sovereign states may make treaties but this principle is not so strictly adhered to in the case of commercial treaties. Egypt, for example, was granted the right by the Sultan in 1873 of negotiating commercial treaties with foreign powers and exercised this right in several instances. The Balkan states also before their independence obtained or maintained this right. While colonies may not negotiate treaties by themselves there has

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been inserted since 1886 in British commercial and other treaties an article whereby any of the English self-governing colonies or India may become a party to the treaties of the motherland at their own option any time within two years after a treaty has been negotiated. Sometimes sovereign states waive their right of making commercial treaties. The independent principality of Liechtenstein surrendered this right when it was incorporated into the tariff-union of Austria-Hungary and this was the case with the independent duchy of Luxemburg when it joined the German Zollverein.

96. Who May Negotiate Commercial Treaties?—The right of negotiating a treaty generally rests conditionally with the king in a monarchy and with the president in a republic, but this right has been largely restricted in recent times, especially as regards the negotiating of commercial treaties. In the United States the Constitution prescribes (Art. II., Sec. 2, §2) that the President "shall have power by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." As the Constitution also stipulates (Art. I., Sec. 7, § 1) that "all bills for raising revenue shall originate in the House of Representatives," it is a mooted question whether a treaty involving a change of revenue laws, as is the case in many commercial treaties, must not have the sanction of both houses of Congress. The question has never been judicially passed upon by the Supreme Court.

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97. Duration of Commercial Treaties.—The general stipulation regarding political treaties especially treaties of peace, is that they are perpetual. Such a stipulation in a commercial treaty is, however, very exceptional. Usually the duration of a treaty of commerce is fixed for a certain number of years or to a certain date and there is often a provision requiring a notification period before a treaty may be terminated, otherwise the treaty continues in force until such a notification be given by one or both of the contracting parties. Thus the commercial treaty of 1828 between the United States and Prussia states that "the present treaty shall continue in force for twelve years, counting from the day of the exchange of the ratifications; and if twelve months before the expiration of that period, neither of the high contracting parties shall have announced, by an official notification to the other, its intention to arrest the operation of said treaty, it shall remain binding for one year beyond that time, and so on until the expiration of the twelve months, which will follow a similar notification, whatever the time at which it may take place." The treaty is still in force no formal notification having been given by either government. It was formerly common in treaties of commerce with Eastern nations to stipulate that they should be revised from time to time. In the treaty of 1858 between the United States and Japan, for example, it was provided that after a certain period upon the request of either party the treaty "shall be subject to revision by commissioners appointed on both

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sides for this purpose, who shall be empowered to decide on, and insert therein, such amendments as experience shall prove to be desirable."

98. Protocol.—Nations before entering into treaty negotiations sometimes exchange views and incorporate into a rough draft the points to be discussed. This rough draft or preliminary document, on the basis of which negotiations are carried on, is known as a protocol. Such a protocol served as a basis for peace negotiations at the close of the Spanish-American war and also at the close of the recent war between Japan and Russia. Sometimes the protocol is accepted and becomes virtually a treaty, as was the case in the regulations of 1874 between the United States and Turkey respecting the rights of foreigners to hold real estate in the Ottoman Empire. A protocol does not always precede negotiations but may form an appendix to a treaty and serve as a means of interpreting the same. The protocol annexed to the naturalization treaty between the United States and Wurtemberg in 1868 is of this nature.

Early treaties were generally written in French but this is now less common excepting in treaties between Western nations and Oriental or semi-civilized countries. Among advanced nations there are generally two copies of a treaty, one in each of the languages of the contracting parties.

99. Subject Matter of Commercial Treaties.—The subject matter of a commercial treaty depends in a large measure, upon the scope and importance of the commercial relations of the contracting par-

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ties as well as upon the degree of their political friendship. Early treaties governing the commercial relations between nations were apt to be of a general character, covering the whole field of commerce and navigation. As previously stated, this was the character of the first American treaties of "amity and commerce," of "commerce and navigation" or of "friendship, commerce and navigation." Later as particular commercial interests are developed which are inadequately regulated in the general commercial treaties, nations negotiate treaties dealing with such special commercial matters. This is exemplified in American history in the negotiation of treaties relating to consuls, trade marks and the like.

100. Groups of Commercial Treaties.—There are four general groups into which commercial treaties may be divided.

A. Treaties containing both tariff stipulations and the most favored nation agreement that each of the contracting parties will treat each other as well as they treat any other third nation. Such treaties cover in detail the most important phases of the commercial relations of the contracting parties. They secure most favored nation treatment in general commercial matters. As regards customs duties the stipulation is either for lower rates than those contained in the general tariff or that existing rates will be maintained or at least not raised while the treaties are in force. Such agreements are generally spoken of as "tariff treaties" since the tariff concessions are looked upon as the principal feature

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of such treaties while the most favored nation clause is regarded as a matter of course. They usually represent close and important commercial relations between highly developed states. The Caprivi treaties of the early nineties between Germany, Austria-Hungary, Italy, and other countries belong in this category.

B. Treaties containing tariff stipulations without the most favored nation agreement. Such treaties are exemplified in the American reciprocity treaties of 1854 and 1876 with Canada and Hawaii as well as with those contemplated by sections three and four of the American tariff act of 1897 whereby the President, with certain limitations, was empowered to grant to other countries tariff concessions in return for equivalent favors.

C. Treaties containing the most favored nation agreement without tariff stipulations. Such treaties generally known as "most favored nation treaties" comprise a large majority of modern commercial treaties. The general American treaties of "commerce and navigation" belong in this group as well as also a large majority of the commercial treaties between European and over-sea countries. Of thirty-six German commercial treaties in force in January, 1901, twenty-eight were most favored nation treaties.

D. Treaties containing neither the most favored nation agreement nor tariff stipulations. Treaties of this class usually contain only general stipulations regarding the conditions under which commerce between the contracting parties may be car-

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ried on and often regulate commercial dealings between advanced industrial nations and those just opening up their ports to modern commerce. The treaty of "peace, amity and commerce" of 1854 between the United States and Japan is of this character.

101. Provisions of Commercial Treaties.—Some of the more important provisions of commercial treaties may be briefly enumerated.

1. The preamble of the treaty names the negotiators and states the purpose of the agreement which is generally "the desire of facilitating and developing the commercial relations established between the two countries." The introductory article often states "that there shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation." The general meaning of this clause as explained in numerous treaties is that citizens or subjects of the contracting countries shall reciprocally, on conforming to the laws, be at liberty freely to enter, travel or reside in any part of the respective territories, to carry on their business, acquire and dispose of real or personal property, have access to the courts of justice and enjoy in these respects the same rights as natives or as are conceded to citizens or subjects of the most favored nation. This right of complete reciprocity or of the most favored nation usually applies also to the vessels of either of the contracting parties.

While prohibitions are opposed to the principle of "reciprocal liberty of commerce and navigation"

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they are allowed in certain cases. For example, the importation and sale of state monopolized articles like tobacco in certain countries as well as some articles of an unsanitary or immoral character are often forbidden or restricted. Likewise states are often compelled, for purposes of protection, to make special regulations in the case of certain classes such as druggists, peddlers, commercial travelers or brokers. The privilege of the coasting trade is generally reserved for native ship-owners and this is often the case as regards the fisheries. Concerning prohibitions the general regulation in American treaties is that "neither of the contracting parties shall establish a prohibition of importation, exportation or transit against the other which shall not be applicable at the same time to all other nations except the special measures that the two countries reserve to themselves of establishing for a sanitary purpose or in event of a war." Not only is one of the contracting parties often excluded from certain privileges enjoyed by the other, as is indicated above, but also it is often exempted from certain burdens, such as forced loans, forced military service and certain kinds of taxes. Liberty of commerce and navigation in the territories of the contracting parties usually applies to the entire territory of either country but this is restricted in certain eastern countries like China, and formerly Japan, to certain "open ports."

2. Sometimes a schedule of customs duties, agreed to between the contracting parties, forms a part of a commercial treaty. This was a feature

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of some of the early treaties between the United States and certain Oriental countries like China and Japan. In the treaty of 1844 between the United States and the former there is appended a tariff of duties to be levied on imported and exported merchandise at the five treaty ports. The exports subject to duties were arranged in fifteen classes and the imports in seventeen. The American-Japanese treaty of 1866 was similar in character. Schedules of customs duties have formed an important feature in most of the American reciprocity treaties as well as in the commercial arrangements based upon conventional and maximum and minimum tariffs.

3. An important feature in many modern commercial treaties relates to the use of rivers and canals. Many of the great rivers of the world have been opened to international commerce through international agreements. It was stipulated in the treaty of peace of 1783 that "the navigation of the river Mississippi, from its source to the ocean, shall forever remain free and open to the subjects of Great Britain and the citizens of the United States." The navigation of the St. Lawrence river was a subject of discussion between Great Britain and the United States for many years but it was finally stipulated in the treaty of 1871 that this river should forever remain free and open for purposes of commerce to the subjects or citizens of either country. Treaties between Great Britain and the United States grant reciprocal rights regarding the navigation of the St. John and the Columbia rivers as well as the use of canals and other waterways on the great lakes.

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Spain questioned the rights of the United States at the mouth of the Mississippi both banks of which were Spanish territory, but this was finally settled by the American acquisition of Louisiana and the Floridas. The United States obtained by treaties certain rights of navigation on the La Plata, Parana and Uruguay while the Amazon in South America and the Rhine, Elbe, Danube and other large rivers of Europe have been thrown open to the commerce of the world. In 1857 the United States was a party to an international agreement between Denmark and the Powers by which the former abolished its system of tolls between the Baltic and North seas in consideration of a stipulated sum paid by the latter. Great canals, like the Suez (1888), have become "neutralized." As regards the Panama canal the United States announces that it shall be open upon equal terms to the vessels of all nations.

4. An arbitration clause for the settlement of special claims is not infrequently inserted in treaties. Such was the case in the Washington Treaty of 1871 wherein provision was made for the settlement of certain claims against Great Britain growing out of the Rebellion and against the United States respecting Canadian fisheries. Sometimes treaties contain a general arbitration clause for the settlement of political or commercial disagreements. Article XXI of the treaty of 1848 between the United States and Mexico stipulated that "if unhappily any disagreement shall hereafter arise between the Government of the two republics, whether with respect to the interpretation of any stipulation

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in this treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said Governments, in the name of those nations, do promise to each other that they will endeavor, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two nations are now placing themselves, using for this end, mutual representations and pacific negotiations. And if, by these means, they shall not be able to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one republic against the other, until the Government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborhood, whether it would not be better that such differences be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference or the circumstances of the case."

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in force; (3) U. S. Treaties from 1776 to 1846 are contained in Vol. VIII. of Stat. at L. of U. S. while later treaties are found in the appendix of subsequent volumes. Consult also Wharton's Digest of Inter. Law and a **new edition by J. B. Moore.

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SUGGESTIVE TOPICS AND QUESTIONS

1. May an executive in a constitutional state modify the revenue laws without the consent of the legislature? How about Napoleon III. in regard to the commercial treaty of 1860? (Meredith's Protection in France, p. 9).

2. If Congress pass a law which a foreign power deem a violation of treaty-rights is there any recourse to the courts? (Am. and Eng. Encyc. Law; also Whitney v. Robertson, 124 U. S. 190; Richter v. Reynolds (C. C. A.) 59 Fed. Rep. 577).

3. What was the question at issue between the President and the Senate in 1905 regarding certain arbitration treaties submitted by the former to the latter?

4. What effect does a tariff law have upon a treaty

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that is inconsistent with it? *Whitney v. Robertson*, 124 U. S. 190, 21 Fed. Rep. 565; *Kelley v. Hedden*, 124 U. S. 196, 31 Fed. Rep. 607.

5. How are the commercial treaties of Tunis made? (*Grunzel's Handelsp.* 441).

6. Are any American treaties perpetual? (Treaties and Conv. between U. S. and other Powers).

7. Would any state of the American Union have the right to make a commercial treaty? Is it the same in Germany? Do we have commercial treaties with any German state? If we do how does it affect our commercial relations with the Empire? (For. Rel. of U. S. since 1890; also *J. Pol. Econ.*, Mr. '03).

8. Is Cuba a sovereign state? Is her right to negotiate commercial treaties in any way abridged? (See "Platt Amendment").

9. Did the commercial treaties of 1854 with Canada, of 1876 with Hawaii and of 1903 with Cuba involve a change in the revenue laws? If they did how was the constitutional requirement met—that all bills for raising revenue must originate in the house? Should the question involved, be brought before the Supreme Court what, in your opinion, would be its decision? Why? (Cong. Rec. for 1903 in connection with the discussion over Cuban Reciprocity; *Moore's Digest Inter. Law*; *Butler's Treaty-Making Power*).

10. Three tariff systems have been mentioned in the text—the general, the general and conventional, and the maximum and minimum. Consider commercial treaties negotiated under these different systems and classify them according to groups of commercial treaties enumerated in the present chapter

CHAPTER XII.

COMMERCIAL TREATIES RECIPROCITY AND THE MOST FAVORED NATION CLAUSE

102. Meaning of Reciprocity.—The essence of reciprocity, whether applied to individual or state dealings, is mutuality in the matter of giving and receiving. As used in connection with commerce it denotes a treaty or convention between two nations whereby one of the contracting parties grants certain advantages to the other in return for the same or equivalent concessions received from the latter. A reciprocity treaty may be of a very general character, mutual advantages being granted in all matters of trade, or it may be restricted in its scope to special advantages such as those relating to import or export duties, tonnage dues, consular matters or the like. Reciprocity was largely absent from early inter-state treaties. These were generally one-sided arrangements, often being concessions wrung from a less fortunate rival in war. Even under mercantilism, where the dominant idea was that a gain to one nation involved a loss to another, retaliation rather than reciprocity was the prominent feature in commercial politics. The latter came into prominence in more recent times with the growth of international law and foreign

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commercial relations. In no country may the various phases of reciprocity be studied to a better advantage than in the United States.

103. First Phase of American Reciprocity.—

The first phase of American reciprocity was very general in character, the early treaties of "amity and commerce" between the United States and foreign countries being based upon the broad ground of reciprocity in all matters of commerce. The treaty of 1785 between Prussia and the United States is typical of this, the introductory words of the treaty stating that "His Majesty the King of Prussia and the United States of America, desiring to fix, in a permanent and equitable manner, the rules to be observed in the intercourse and commerce they desire to establish between their respective countries have judged that the same end cannot be better obtained than by taking *the most perfect equality and reciprocity for the basis of their agreement.*"

104. Second Phase of American Reciprocity.—

This phase of American reciprocity was more specific in character than the first phase and related primarily to tonnage dues. As has been previously stated one of the first acts of the Congress of the United States under the Constitution was to levy a discriminating tax on tonnage whereby American vessels entering domestic ports, as well as merchandise imported in them paid lower duties than were required of foreign vessels and their cargoes. The first modification of this discriminating law occurred in 1815. Article II. of the convention of that year

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between the United States and Great Britain enacted that "no higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels (or their cargoes) than those payable in the same ports by vessels (including their cargoes) of the United States, nor in the ports of any of His Britannic Majesty's territories *in Europe* on the vessels (or cargoes) of the United States than shall be payable in the same ports on British vessels (or their cargoes)." It is to be noted especially that this *reciprocity applied only to the direct trade* between the United States and Great Britain, while discriminating duties still governed the trade relations of the United States with British possessions in the West Indies and in North America. This principle of restricted reciprocity was extended, with some modifications, during the next few years to several other countries.

105. Third Phase of American Reciprocity.—Reciprocity in tonnage duties which characterized the period between 1815 and 1828 so far as direct trade was concerned, was *extended by the law of May 24, 1828, to include indirect trade*. The United States had repeatedly attempted to obtain from Great Britain a removal of the discriminations which were placed upon American vessels engaged in West Indian trade. Unsuccessful in this by the convention of July 3, 1815, above cited, Congress passed various laws, during the following decade, of a retaliatory character the final result being that Great Britain agreed in 1830 to open her West Indian ports to American vessels upon the payment

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of the same duties required of English vessels. This principle of reciprocity in indirect as well as direct trade was extended by proclamation or by conventions to other countries so that it became the general policy governing the trade relations of the United States with foreign countries until the outbreak of the Civil War.

106. Fourth Phase of American Reciprocity.—Early reciprocity of a special character both in Europe and in the United States related largely to the subject of tonnage duties and came as a reaction against the navigation policy of various countries especially of England and of the United States. About 1825 in the former country and somewhat later in the United States the principle of reciprocity began to be prominent in connection with the modification of customs duties. Reciprocity treaties of this kind generally consist in each of the contracting parties granting special or lower import duties on certain articles imported from the other country than is required when the same articles are imported from a third country. Such a plan is apt to invite retaliation from less favored countries and is difficult to apply in a country like the United States having the general or autonomous tariff. As a result most of the attempts in this country to negotiate reciprocity treaties of this character have resulted in failures, the exceptions being those of 1854 with Canada, of 1876 with Hawaii, and of 1903 with Cuba. Very strong political reasons dictated the negotiations of the Hawaiian and Cuban reciprocity treaties. The Canadian treaty of

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1854 stands almost alone as the sole example of this phase of reciprocity in the United States and the fact that it was terminated by this country in 1866 may be taken as an indication that reciprocity of this kind has not been popular in the United States.

107. Fifth Phase of American Reciprocity.—This phase related to tonnage duties. At the time of the Civil War tonnage duties were reenacted. A law in 1884 prescribed that in lieu of the then existing tonnage duty of six cents per ton (not exceeding thirty cents per year), vessels entering the harbors of the United States from Central and South American ports should pay only three cents per ton (not exceeding fifteen cents per year) provided American vessels were not required to pay any higher tonnage duties in such foreign ports. Vessels entering the United States from all other foreign countries were to pay the old rate of six cents per ton (not exceeding thirty cents per year). Objections being raised against this law by the less favored countries it was changed in 1886, the law of that year empowering the President to suspend by proclamation such tonnage dues "from any port as may be in excess of the tonnage and light house dues or other equivalent tax or taxes imposed in said port on American vessels." The policy of the American government is therefore to abolish all tonnage duties provided other countries reciprocate. However as most countries maintain some form of light house or other port charges but few govern-

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ments have been able to take full advantage of this law.

108. Sixth Phase of American Reciprocity.—Section three of the tariff acts of 1890 and 1897 registers the sixth phase of American reciprocity. In the former act all "sugars, molasses, coffee, tea and hides, raw and uncured" were put upon the free list (except that refined sugar paid an import duty of one-half cent per pound and also a countervailing duty when imported from countries paying an export bounty). All these commodities, excepting sugar, had paid no import duty for many years. Free sugar was included in the bill when it passed the House in 1890 because there was an overflowing treasury and this together with a bounty paid domestic producers furnished a good method of reducing the revenue. When the law reached the Senate there was inserted a clause, largely through the influence of the then Secretary of State, Mr. Blaine, which empowered the President to impose by proclamation specified import duties on the above named commodities if he considered that any country exporting any or all of them to the United States "imposes duties or other exactions on the agricultural or other products of the United States which, in view of the free introduction of sugar, molasses, tea, coffee and hides into the United States he may deem to be reciprocally unjust or unreasonable." This reciprocity feature of the tariff act of 1890 was omitted in the tariff law of 1894 but re-inserted in the act of 1897 and included in the latter, the items of coffee, tea, tonka beans and vanilla beans.

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Sugar had been placed in the duty list in the law of 1894 and retained there in the act of 1897 because of the revenue needs of the government. In accordance with section three of the tariff law of 1890 reciprocity treaties were negotiated with most of the coffee and sugar producing countries. Although no concessions were obtained from the great tea-exporting countries of Asia or the important hide-exporting country of Argentine the President did not see fit to place the threatened import duty on tea or hides coming from these countries. These reciprocity arrangements were annulled by the tariff act of 1894 and were not renewed in the law of 1897.

109. Seventh Phase of American Reciprocity.—Section three of the tariff act of 1897, in addition to the feature referred to in the preceding paragraph, authorized the President to offer certain specified rates, which were lower than the rates in the general tariff, on imported crude tartar, brandies, champagnes, wines, paintings and statuary. "The country aimed at," says Professor Taussig, "was France. The higher duties on silk in the new act (of 1897) would especially affect this country and might tempt her to reprisals. Her system of maximum and minimum duties, adopted in 1892, was especially devised as a means of securing concessions in commercial negotiations. Now the United States followed suit and arranged her own system of duties in such a manner that concessions were provided for in advance. The whole had somewhat the effect of a comedy, each country enacting duties which it did not really care to enforce

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and offering concessions which it did not regard as real concessions." A reciprocal arrangement, by virtue of this section, was made with France which went into effect on June 1, 1898, that country granting her minimum rate on certain American imports—the concessions being identical with those granted to the United States under the act of 1890. Similar arrangements were also made by the United States with Portugal, Germany, Italy, and Switzerland.

110. Eighth or Final Phase of American Reciprocity.—The final phase of American reciprocity is merely an extension of the preceding phase. "With a view to secure reciprocal trade with foreign countries" the President was empowered by section four of the tariff act of 1897 to make commercial arrangements with other nations offering in return for equivalent concessions, reductions on import duties (the maximum being twenty per cent.), and a transfer to or retention on the free list of certain goods. The law required that treaties be made within two years after the passage of the act and be arranged for a period not exceeding five years. They must furthermore receive the consent of Congress before becoming operative. Several treaties were negotiated by virtue of this law, notably with France, Ecuador, Nicaragua, and also with Great Britain and Denmark for their West Indian colonies and sent to the Senate by the end of 1899 but opposition to them, especially to the French treaty, was strong enough to prevent ratification. Reciprocity was finally settled so far as the sugar

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producing countries are concerned by a stipulation in the Cuban reciprocity treaty of 1903 granting a reduction of twenty per cent. upon sugar imported into the United States from Cuba with the understanding that "no sugar the product of any other country shall be admitted by treaty or convention into the United States while this convention is in force, at a lower rate of duty than that provided by the tariff act of the United States approved July 24, 1897."

III. Meaning of the Most Favored Nation Clause.—Reciprocity treaties were at first limited to exclusive and distinct engagements between the contracting parties, each treaty differing more or less from other similar compacts. As such treaties became more frequent it often happened that reciprocal arrangements between two nations were rendered, in a greater or less degree, valueless by one of the contracting parties granting more liberal concessions to some third nation. To obviate this disadvantage it gradually became common to stipulate in reciprocity treaties that each of the contracting parties would grant to the other every concession granted to the most favored nation. This stipulation became known as the most favored nation clause. While traces of such an arrangement are found as early as in the treaty of 1654 between England and Sweden the most favored nation clause did not form an important feature in international commercial agreements until the latter part of the eighteenth century.

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112. Restricted (or American) Most Favored Nation Policy.—The most favored nation clause is to be found in the American commercial treaties from the very start. Article two of the treaty of "amity and commerce" of 1778 between the United States and France—the first one negotiated by the American colonies after their "Declaration of Independence," stated that "the Most Christian King and the United States engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favor, freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional." This clause which is substantially the same as in most of the general American commercial treaties registers the uniform commercial policy of the United States as regards its interpretation of the most favored nation obligation. It should be carefully noted that this stipulation is not opposed to reciprocity. It does not prevent the United States from making reciprocal arrangements with other nations. The most favored nation clause means, according to the American interpretation, that the "most favored nation" is entitled to all gratuitous concessions to third countries but if the United States grants con-
to another nation in return for equivalent
the most favored nation may only claim
favors by granting the same or equivalent
favors in return. It is the failure on the part of
some foreign governments to understand the con-

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sistent and uniform policy of the American government in this respect that is responsible for the mistaken claim that the United States has in some instances violated her most favored nation obligations.

113. Unrestricted (or European) Most Favored Nation Policy.—In the unrestricted most favored nation policy each contracting party mutually agrees to grant unconditionally to the other every commercial favor granted to a third power. While the policy of European nations has not been uniform regarding this subject the general tendency, since the treaties of the free trade era of the sixties, has been for most European nations to regulate their international commercial relations upon the basis of unrestricted most favored nation rights. This was partially conceded in the Cobden treaty of 1860 between England and France wherein article nineteen stipulated that “each of the two high contracting powers promises to grant to the other every favor, every privilege or reduction in import duties of the articles mentioned in the present treaty, which one of them should accord to a third power.” A more complete expression of unrestricted most favored nation rights is found in article five of the commercial treaty of 1865 between Belgium and the German Zollverein which states that “every favor, every immunity, every reduction in import or export duties which one of the high contracting parties shall accord to a third power, shall immediately and unconditionally extend to the other.”

114. Scope of the Most Favored Nation Clause.—The scope of the most favored nation clause dif-

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fers in different countries and is not always the same for different treaties in the same country. In the commercial treaties of the United States the most favored nation right refers in some cases to "any particular favor in navigation and commerce" while in other instances it applies to specific subjects such as consuls, diplomatic agents, real estate ownership and the like. In the Frankfort treaty of 1871 between Germany and France it extends to import, export and transit duties as well as to customs formalities. On the one hand, in some treaties, as for example in the German-Japanese treaty of 1896, it covers the whole field of commercial matters, while on the other hand it is sometimes restricted to a few articles such as sugar and rice in the treaty of 1841 between England and the German Zollverein or coal and iron in the treaty of 1846 between Belgium and Holland. Occasionally special articles are exempted from most favored nation treatment as, for example, sugar in the provisional treaty of 1881 between France and Austria. A notable restriction exists in the most favored nation regulation between Germany and France, article eleven of the Frankfort treaty stipulating that either of the contracting parties must grant to the other gratuitously and unconditionally concessions given to England, Belgium, Holland, Switzerland, Austria and Russia.

Most favored nation treatment generally applies to domestic products or vessels and not to those of colonies. Differential treatment and most favored nation agreements are not always inconsistent.

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Some contiguous countries, for example, grant special favors regulating their border traffic, the advantages of which most favored nations may not claim. Close political relations may sometimes justify preferential treatment as was the case in the American-Hawaiian treaty of 1876, Germany and other European countries vainly claiming from Hawaii, by virtue of the most favored nation agreement, the privileges extended to the United States. While the most favored nation right is generally reciprocal and enjoyed by both parties this is not always the case especially in treaties between Western and Eastern nations. Article eleven of the treaty of 1856 between the United States and Siam, for instance, stipulated that "the American government and its citizens will be allowed free and equal participation in any privileges that may have been or may hereafter be granted by the Siamese government to the Government, citizens or subjects of any other nation." There was no reciprocal obligation on the part of the United States to extend the same privileges to Siamese subjects.

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SUGGESTIVE TOPICS AND QUESTIONS

1. Has the United States made any treaties guaranteeing unrestricted most favored nation rights? (Art. VIII-XII. of Swiss treaty of 1850; J. Pol. Econ. March, 1903, p. 232, note; Treaties and Con., p. 1359; Moore's Inter. Law Digest, Vol. V., p. 283.)

2. The American government granted complete ex-

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emption of tonnage dues to German vessels in 1888 but rescinded this action in 1896. What was the justification for this procedure? (J. Pol. Econ., II., pp. 229-331; Mess. of Pres., IX., 697; For. Rel. of U. S. for 1885, 1888, 1894 and 1896; Moore's Digest, V., Sec. 766).

3. Germany claimed that the United States should extend to her the same reductions made to France in 1898 on the ground that the United States enjoyed all the benefits of the German conventional tariff. Was the American government justified in refusing this claim? (J. Pol. Econ., II., 231). Switzerland claimed the same concessions and was granted them. Was this right? (References in question number two).

4. What is the position of the Republican party on reciprocity as expressed in the national platforms since 1890? Has Republican legislation been in keeping with the platform statements on reciprocity?

5. What are the views of the following American statesmen regarding reciprocity? Blaine (Twenty Years in Congress); Garfield (works); Sherman (works); McKinley (Buffalo Speech in 1901); Cummins of Iowa (Art. "Reciprocity" in Encyc. Amer.); and Roosevelt (Mess. of Pres.).

6. Does reciprocity mean an abandonment of the policy of protection or a general lowering of import duties? Has American reciprocity since 1890 had any effect on lowering import duties? in raising them? (Taussig's Hist. of Tariff, pp. 281-2; Am. Econ. Assoc. Pub. Seventeenth Ann. Meeting, Part II., pp. 106-129).

7. It was asserted by the late Senator Hanna that some rates in the tariff act of 1897 were made abnormally high for the purpose of obtaining concessions from foreign countries by lowering these rates. Was such a course justifiable? Was it successful? (References in preceding question; also speeches of Allison, Dolliver, Hale and Hanna in Cong. Rec. for Jan. 1903).

8. Has there been any question as to the constitutionality of the reciprocity measure of 1890?

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9. Regarding section three of the tariff act of 1898 (sixth phase) the text states: "Although no concessions were obtained from the great tea-exporting countries of Asia or the important hide-exporting country of Argentina, the President did not see fit to place the threatened import duty on tea or hides." Why? (Consult Taussig's *Hist. of Tariff*; also *Statist. Abs. of U. S.*).

10. According to American treaties could the United States place an internal tax on strictly domestic articles? on strictly foreign articles? on articles both produced at home and also imported? Give examples and show effects in each case.

11. Make a careful abstract of the commercial arrangements of United States with some foreign government by virtue of the reciprocity clauses in tariff acts of 1890 or 1897. Discuss the merits of the case with special reference to the advantages obtained by United States. Discuss especially the "North" reciprocity arrangement with Germany in 1907. (*Doc. Catalog*; periodicals and trade papers, *J. Pol. Econ.* Je.-JL, 1907).

CHAPTER XIII.

PUBLIC TRADE-PROMOTING INSTITUTIONS

115. General.—While all governmental activities have an influence in developing a nation's commerce and industries, most civilized countries have special legislative committees and executive departments or bureaus devoted to the furthering of foreign commerce and commercial relations. In the legislative branch of the American government there are various standing committees of the House of Representatives and of the Senate which are charged with duties affecting the foreign commerce of the United States. Among the former may be mentioned the committees on interstate and foreign commerce, foreign affairs, and insular affairs, while the standing committees of the Senate include those of commerce, foreign relations, interoceanic canals, Cuban relations, Pacific islands and Porto Rico, Philippines, and Canadian relations. Besides these standing committees there are also certain special or select committees such as the Senate committee on industrial expositions and on the transportation and sale of meat products.

Many departments of the executive branches of the American government are also charged with duties relating to foreign trade. This is especially the case as regards the Department of State, with

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its Bureau of Trade Relations and the Consular Bureau; the Treasury Department with its Board of Appraisers, Collectors of Customs and Customs Division; the Department of Commerce and Labor with its Bureau of Statistics and Bureau of Manufactures; the Department of Agriculture with its Bureau of Statistics containing a Division of Foreign Markets; and the War Department with its Bureau of Insular Affairs.

Finally, there should be added to this list various international and national commissions such as the International Bureau of American Republics, the United States Industrial Commission, the American Reciprocity Commission, the Commission to the Philippines and the Isthmian Canal commissions.

116. United States Department of State.—The Department of State is charged, under the direction of the President, with the duties appertaining to correspondence with the public ministers and the consuls of the United States, and with the representatives of foreign powers accredited to the United States. This department is also the custodian of the treaties made with foreign states, grants and issues passports to American citizens and exequaturs to foreign consuls in the United States, and publishes, among other things, an annual volume on the Foreign Relations of the United States, all American treaties and other miscellaneous matter of a commercial character. The head of the department is the Secretary of State and under him are several assistants, the Third Assistant Secretary of State being especially charged with duties per-

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taining to the consular service. Among the bureaus of the department having to do with commercial matters the most prominent are the Bureau of Trade Relations and the Consular Bureau. The former prepares instructions to consular officers for reports to be printed by the Department of Commerce and Labor, revises and transmits such reports to said department and to other branches of the Government service, and compiles commercial information for the use of the Department of State. The work of the Consular Bureau has been stated officially to consist "principally of correspondence with consular officers in regard to their official duties."

117. General Consular Service.—A consul is an agent appointed by a government to reside in some foreign country for the primary purpose of protecting and fostering the commercial interests of the home government. He differs, therefore, from a diplomatic officer in that the latter has principally to do with political relations. In other words a consul is an official commercial agent while a diplomat is an official political agent. While this is the general distinction, the duties of each class often overlap, consular officers being sometimes required to exercise political functions especially in countries where there are no diplomatic representatives, and the latter often being charged with very important commercial matters. While the duties of American consuls are manifold their most important commercial functions consist in the assistance which they render in the administration of the

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tariff law, especially in the certification of consular invoices and in furnishing reports on commercial subjects. As regards the latter, in addition to special reports, annual reports have been issued since 1856 (Commercial Relations of the United States), and later these have been supplemented by monthly (since 1881) and daily reports (since 1897).

Officers with duties of a diplomatic or consular character were appointed in very ancient times, but the modern consular system dates from the rise or revival of commerce in the Italian cities at the time of the Crusades. Since then the system has become a part of the commercial politics of all civilized countries. The general duties and privileges of consular officers are determined principally by international law, by treaties, by local customs and by statutory enactments and therefore vary somewhat to meet local or national conditions. The principal consular officers are usually appointed by the executive, in the United States by the President with the advice and consent of the Senate, while subordinate consular officers are generally designated by the Secretary of State or by the principal consular officers. In most of the advanced nations consular appointments are based upon competitive examination, tenure is during good behavior and advancement is the result of merit—conditions which offer honorable public careers to ambitious young men. Until recently in the United States consular appointments have been secured through political influence, applicants being subjected to an

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examination only after their appointments were settled upon, while tenure has been based upon political elections and has therefore been insecure. Usually a principal consular officer is accredited by the home Secretary of State to the corresponding officer in the foreign country, and before entering upon the duties of his office he must obtain from the latter an *exequatur* or written permission to act in his official capacity.

118. Development of the American Consular Service.—During the War of Independence consular functions were exercised by the American commissioners in Europe in addition to their diplomatic duties. The first consul of the United States was appointed in 1780. After the adoption of the Constitution, which conferred upon the President, in conjunction with the Senate, the power of naming consuls, several appointments were made, but the first general law regarding consuls was not passed until 1792. From that date until 1856 various consular laws were enacted, but in the latter year Congress passed a comprehensive law which has remained upon the statute books with slight alterations until very recent times. During the past few years, however, there has been much agitation in favor of certain reforms in the American consular service. The principal evils complained of have been: "(1) imperfect mode of selection of consular officers, (2) no permanency of tenure, (3) inadequate compensation resulting in (a) the exaction of excessive fees and (b) the creation of consular agencies to increase salaries, (4) excessive number

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of consulates and commercial agencies, (5) imperfect enforcement of regulations, especially as regards amounts of fees and their collections." In order to remedy the evils of the American service various bills have been introduced in Congress from time to time, the main features of which were (1) definite and ample salaries, (2) the abolition of all unofficial or personal fees and the payment of all revenue derived from fees into the United States Treasury, (3) vacancies filled by promotion and appointment based upon merit and general efficiency, (4) security of tenure and (5) adequate inspection of the service. The efforts towards reform resulted in the consular law of 1906 and this, supplemented by certain executive orders, has placed the consular service of the United States on a much more satisfactory basis.

119. Present American Consular Law.—The consular service of the United States consists of consuls-general, vice-consuls-general, deputy consuls-general, consuls, vice-consuls, deputy consuls, and consular agents, besides various consular clerks, interpreters and marshals. The present law divides the principal consular officers into the following classes:

CONSULS-GENERAL

Class	I.—Salary.....	\$12,000 (2 in all)
"	II.— "	8,000 (6 in all)
"	III.— "	6,000 (8 in all)
"	IV.— "	5,500 (11 in all)
"	V.— "	4,500 (18 in all)
"	VI.— "	3,500 (9 in all)
"	VII.— "	3,000 (3 in all)

Total.....	<u>57</u>
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CONSULS

Class	I.—Salary.....	\$8,000 (one)
"	II.— "	6,000 (")
"	III.— "	5,000 (8 in all)
"	IV.— "	4,500 (12 in all)
"	V.— "	4,000 (21 in all)
"	VI.— "	3,500 (32 in all)
"	VII.— "	3,000 (47 in all)
"	VIII.— "	2,500 (61 in all)
"	IX.— "	2,000 (70 in all)
	Total.....	253

The new law makes no statement regarding the appointment of the principal consular officers (consuls-general and consuls), but the general constitutional provision requires that they be appointed by the President, by and with the advice and consent of the Senate. The subordinate offices generally "shall be filled by appointment as heretofore," which means that officials holding these positions "are appointed by the Secretary of State, usually upon the nomination of the principal consular officer." The appointment of consular agents, however, has been based upon examination and their tenure upon good behavior. The present law states that they "may be appointed, *when necessary*, as heretofore." In this connection mention should be made of recent acts of Congress providing for ten "student interpreters" to be stationed in the Orient. They must be non-partisan, citizens of the United States and must agree to continue in the service ten years. Their main duty is to study the Chinese and Japanese language in order to serve as interpreters to legations and consulates in the Orient.

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One of the weaknesses of the service has been the lack of adequate inspection. The present law provides for five inspectors of consulates to be designated consuls-general at large, who shall receive an annual salary of \$5,000 and travelling expenses and shall be appointed from the members of the consular force possessing the requisite qualifications of experience and ability. They must inspect such consulates as the Secretary of State shall direct, but the law specifies that each consular office shall be inspected at least once in every two years.

Foreigners shall not be appointed to any consular post in the American service the salary of which is in excess of \$1,000 per annum nor shall any consul-general, consul, or consular agent receiving a salary of \$1,000 or over engage in any business within his consular district.

Formerly fees were generally regarded as perquisites of the office, and in a great many instances such fees appropriated by consuls were largely in excess of their regular salary. Later the law distinguished between official and unofficial fees, the former being paid into the United States Treasury. This curtailment of personal fees without a corresponding increase of salary made the remuneration so small that many consular officers found it next to impossible to live respectably on their salaries, a condition of affairs demoralizing to the service. The present law remedied these defects by making more liberal salary allowances and stipulating also "that all fees, official or unofficial, received by any

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officer in the consular service for services rendered in connection with the duties of his office or as a consular officer . . . shall be accounted for and paid into the Treasury of the United States, and the sole and only compensation of such officers shall be by salaries fixed by law."

120. Recent Regulations Governing Appointments and Promotions.— In the various consular reform measures advocated in recent years emphasis has been laid upon the importance of applying civil service rules in the matter of appointments and promotions. This has been the principal rock on which proposals for the reform of the consular service have been wrecked, opposition coming largely from politicians who fear the loss of political patronage. The present act was passed by Congress only after the elimination of provisions regulating appointments and promotions. Much, however, has been accomplished to supply this deficiency by means of "executive orders," or such regulations as the law authorizes the President to prescribe "for the admission of persons into the civil service of the United States as may best promote the efficiency thereof." The weakness of these regulations lies in the fact that they may be changed or abolished at the will of the executive. Public opinion, however, is so aroused on this subject that there is little likelihood of any retrograde movement.

A step in the right direction was President Cleveland's Executive Order of September 20, 1895, whereby it was prescribed that vacancies in consulates-general, consulates, commercial or consular

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agencies, where the salary was not less than \$1,000 nor over \$2,500 per annum must be filled "(a) by a transfer or promotion from some other position under the Department of State of a character tending to qualify the incumbent for the position to be filled, or (b) by appointment of a person not under the Department of State but having previously served thereunder to its satisfaction in a capacity tending to qualify him for the position to be filled, or (c) by the appointment of a person who, having furnished satisfactory evidence of character, responsibility and capacity, and being thereupon selected by the President for examination, is found upon such examination to be qualified for the position." These regulations were extended by the present administration in the executive order of November 10th, 1905 to include all consular vacancies mentioned above where salaries were not less than \$1,000 per annum.

181. Present Regulations Governing Appointment and Promotions.—By the Executive Order of June 27, 1906, the President prescribed the following regulations to govern the selection of consuls-general and consuls, subject to the advice and consent of the Senate: (1) vacancies in the offices of consuls-general and all consuls above class VIII are to be filled by promotion from lower grades; (2) vacancies in the offices of classes VIII and IX shall be filled, (a) by promotion of subordinate consular officials, or (b) by new appointments of candidates passing a satisfactory examination; (3) Department of State officials having a salary of \$2,000 or over are eligible for any consular post

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above class VIII of consuls; (4) the chief examiner of the Civil Service Commission or some one designated by it, the Chief of the Consular Bureau and one other official of the State Department shall constitute a Board of Examiners for admission to the consular service; (5-6) this Board shall formulate rules for and hold examinations of applicants as well as prescribe the scope and method of the examinations, but certain designated subjects must be included; (7-8) the examination is rated on a scale of 100, a passing grade being 80 or over, and candidates must be between the ages of twenty-one and fifty, citizens of the United States, and of good health and character and "*be specially designed by the President for appointment to the consular service subject to examination*;" (9) whenever a vacancy occurs in the eighth or ninth class of consuls "*which the President may deem it expedient to fill*," the list of candidates who have passed the required examination shall be sent to him *for his information*; (10) all promotions must be based on efficiency; (11) all vice-consuls, deputy consuls, consular agents or student interpreters must pass the required examination in order to become eligible for promotion; (12) in the matter of appointments the political affiliations of the candidates are not to be considered, but due regard must be had to securing proportional representation in all the states and territories.

122. Regulations Governing Examinations.—In pursuance of the Executive Order of June 27, 1906, the Board of Examiners has adopted certain

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regulations governing examinations. These examinations are the same for all grades and are both oral and written. The object of the oral examination is "to determine the candidate's business ability, alertness, general contemporary information, and natural fitness for the service, including moral, mental and physical qualifications, character, address and general education and good command of English." The written examination includes "those subjects mentioned in the executive order, to wit, French, German or Spanish, or at least one modern language other than English; the natural, industrial, and commercial resources and the commerce of the United States, especially with reference to possibilities of increasing and extending the foreign trade of the United States; political economy, and the elements of international, commercial, and maritime law. It likewise includes American history, government and institutions; political and commercial geography; arithmetic (as used in commercial statistics, tariff calculations, exchange, accounts, etc.); the modern history of Europe, Latin America, and the Far East since 1850, with particular attention to political, commercial, and economic tendencies. In the written examination, composition, grammar, punctuation, spelling and writing are given attention." In order to become eligible for appointment in countries where the United States exercises extraterritorial jurisdiction, additional examinations are required in the principles of the common law, the rules of evidence and the trial of civil and criminal cases. Student interpreters are sub-

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jected to the same examination as other consular applicants excepting that their age limits are nineteen to twenty-six inclusive, and they must be unmarried and agree to continue in the service ten years if the government desires them to do so. Candidates attaining upon the whole examination an average mark of at least eighty are placed upon the eligible list for a period of two years.

123. Criticism of the Present American Consular Service.—In summarizing recent legislation and regulations affecting the American consular system, it may be said that the tendencies are in the direction of more efficient service. The law of April 5, 1906, bettered conditions by reclassifying consular offices, abolishing unofficial fees, providing more equitable and adequate salaries and making provision for more regular and efficient consular inspection. Executive orders have improved the service especially in the way of regulations governing appointments and promotions. These have not, however, been entirely adequate and their value is lessened by the fact that they may be changed or abolished as already stated, at the will of the executive. The political character of appointments was very little changed by the executive orders of September 20, 1895, and November 10, 1905. Candidates were chosen for particular posts in the service almost entirely from political considerations, and it was quite settled that their appointment would issue after they had passed the prescribed examination. Under such conditions an examination acted as only a slight deterrent to political appointments and very

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few failed who were allowed to take the examination. Under the new order of June 27, 1907, the situation is considerably improved. The candidate comes up for examination not only without any information whatever as to the post to which he may be appointed, but also without the definite assurance that he will be appointed to any post, although he may receive the necessary marks which entitle him to be placed upon the eligible list. Furthermore, an applicant is not now eligible, as in the past, to the higher positions—a condition acting as a discouragement for purely political appointees. In commenting on the new order a prominent government official states that "political considerations do not enter into the designation, as they did under the old order, and furthermore, other things being equal, the designations as well as appointments are to be made so as to secure proportional representation of all the states and territories." As regards the second point, proportional representation is not a new idea in the United States as it has always been more or less of an unwritten law. As to the first point the executive order, which has already been quoted, stating that "no one shall be examined . . . who has not been specially designated by the President for appointment to the consular service subject to examination," does not necessarily insure that political considerations will not enter into the designation. Nor are there any intimations either in the executive order or in the regulations governing examinations as to the manner in which these designations are made. They might be made in such a

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way as to open the door to all aspirants or so as to discourage them more or less effectively. The general rules and Order suggest that the latter course is regarded by the President and the Department as the most effective. The popular idea, therefore, that the new consular law and executive order open the door to a consular career for any aspiring young man is hardly truer now than under the old law. The applicant must still practically obtain the endorsement of the senators of his state before even being designated for an examination, and then there is no assurance, upon passing the examination, that he will receive an appointment since the number designated is largely in excess of the number of vacancies. Should the young man, however, be successful and enter the service there is more assurance now than formerly that an honorable career will be open to him and that the government will obtain a better servant.

For bibliography and suggestive topics and questions consult the following chapter (XIV). ●

CHAPTER XIV.

PUBLIC TRADE-PROMOTING INSTITUTIONS

(continued)

124. Commercial Attachés.—The duties of diplomatic officers are, as has been stated, primarily political, while those of consular officers are principally commercial. Nevertheless, many commercial questions are constantly coming up which diplomatic officers, because of their closer relations with foreign government, are often in a better situation to consider than are consular officers. A few countries bridge the gap between these two classes of officials by the appointment of commercial attachés who may be styled commercial diplomatic agents since they are both members of an embassy, or legation, and are employed as experts on commercial questions arising between the home and foreign governments. Such officials form a part of the English and Russian diplomatic service, while similar officers, called "agricultural attachés," constitute a part of the German service. Such appointments are of recent origin. The plan was inaugurated by England in 1880 and she now has seven commercial attachés.

125. Proposal for Commercial Attachés in the American Diplomatic Service.—The advisability of making commercial attachés a part of the Ameri-

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can diplomatic service has been discussed in the United States in recent years. In 1904 an official circular letter was addressed to American diplomatic and consular officers asking for an expression of views on this subject. The replies were generally favorable, but there were certain objections advanced, the most important being (1) the danger of impairing the dignity and usefulness of diplomatic officers by identifying them too closely with commercial activities, (2) the danger of conflict between consular and diplomatic officers with the possible result of impairing the initiative and zeal of the former, (3) the additional expense to the government without the guaranty of sufficient returns. Based upon the results of this inquiry a bill was drafted, which was approved by the President, asking Congress to appropriate money for six special agents of the Department of State, with the diplomatic rank and title of commercial attaché, to be appointed by the President, preferably from the consular service, and to be assigned, subject to transfer at the discretion of the Secretary of State, to embassies and legations, or to particular trade regions or to such occasional service in the Department of State as might be deemed advisable by the Secretary of State. The inspection of consulates was to be a part of the duties of these attachés. Their salaries were to be liberal, and tenure was to be during good behavior. The advocates of the law claimed as advantages (1) that such officers would have more direct relations with foreign governments than the consuls and would be in a posi-

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tion to obtain information often inaccessible to the latter; (2) that they would keep ambassadors or ministers more thoroughly informed on important commercial questions, and (3) that they would offer an incentive to more efficient work on the part of consular officers both because it was proposed to favor the latter in appointments to these positions and because of the supervisory power of the attachés. Congress did not pass this bill, but instead passed a law providing for the appointment of commercial experts to carry on trade investigations in different parts of the world under the direction of the Department of Commerce and Labor. In the new consular law which took effect on June 30, 1906, Congress also provided, as has been stated, for five inspectors of consulates. While these two laws have lessened the urgency of appointing commercial attachés, the writer is inclined to believe, from several years' experience as secretary of an American Embassy, that such officers, if carefully chosen, would amply repay the small additional expense to the service.

126. United States Treasury Department.—This department is charged with the management of the national finances, and its importance to the foreign commerce of the country is due largely to the fact that about thirty-five per cent. of the total federal revenue of the United States is derived from duties on imports. The administration of the tariff is largely, therefore, a matter of the Department of the Treasury. The part played by the customs collectors and by the local and general appraisers

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has been related. The *Customs Division* of this Department has important duties relating to matters of the customs, among other things being charged with the publication of the decisions of the Treasury Department and the Board of General Appraisers, the preparation and promulgation of rules and regulations to govern the official action of customs officers, the ascertainment and establishment of rates of drawback and rebates, the regulation of the landing of passengers from abroad and the examination of their baggage. They also entertain (1) requests from customs officers for advice and instructions relative to current procedure, to the construction of statutes and to matters arising under special conditions; (2) appeals against the collectors' assessment of duty upon passengers' baggage, household effects, tools of trade, etc.; (3) requests from societies for the free entry of articles under various special provisions of law; (4) applications for the release of seized goods, for the remission or mitigation of fines and penalties, and for relief from additional duties incurred by reason of undervaluation; (5) applications from the several executive departments for the free entry of articles imported by the United States and for the extension of courtesies to diplomatic and distinguished passengers on arrival, etc.

127. United States Department of Agriculture.—In many countries agriculture is the very foundation of commercial prosperity. This is preëminently the case in the United States where good crops are practically synonymous with good times.

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Anything, therefore, affecting the agricultural conditions of the country is of vital interest to the American people. The importance of agriculture to the foreign trade of the United States is shown by the fact that in spite of a growing tendency toward increasing consumption of domestic agricultural products, coupled with a remarkable growth in the value of exports of domestic manufactures, nearly two-thirds of the value of the total export trade still consists of food products and crude materials for use in manufacturing. The Secretary of Agriculture, among his various duties, exercises advisory supervision over the agricultural experiment stations deriving support from the national treasury, has control of the quarantine stations for imported cattle, and of the inspection of cattle-carrying vessels, and directs the inspection of domestic meats and all imported food products. He is also charged with the duty of carrying into effect the laws excluding from importation certain noxious animals, and has authority to control the importation of other animals. One of the most important sections of the Department, so far as foreign commerce is concerned, is the *Bureau of Statistics*, which records, tabulates and coordinates statistics of agricultural production, distribution and consumption. The *Division of Foreign Markets*, which is under this bureau, has for its object the extension of the agricultural export trade of the United States. It investigates the requirements of foreign markets, studies the conditions of demand and supply as disclosed by the records of produc-

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tion, importation and exportation, inquires into the obstacles confronting trade extension, and disseminates through printed reports and otherwise the information collected.

128. United States Department of Commerce and Labor.—Many governments have special departments which are charged with the work of promoting domestic and foreign commerce. Sometimes such departments have charge of only commercial matters, but more often they are associated with allied interests such as industry, agriculture, mining, fisheries, navigation, labor, etc. In the United States the Department of Commerce and Labor was organized in 1903 by the transference of several bureaus, boards, etc., from other governmental departments and by the formation of some new bureaus. The purpose of this department, as expressed in the law, is "to foster, promote, and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, the labor interests, and the transportation facilities of the United States." The bureaus, or boards, of this department which most directly affect American foreign commerce and commercial relations are the (a) Bureau of Statistics and (b) the Bureau of Manufactures.

(a) *Bureau of Statistics.* This Bureau, formerly a part of the Treasury Department, collects and publishes among other facts, the statistics of foreign commerce, embracing tables showing the imports and exports both by countries and by customs districts; the transit trade inward and outward by

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countries and by customs districts; imported commodities warehoused, withdrawn from, and remaining in warehouse; the imports of merchandise entered for consumption, showing quantities, value, rates of duty, and amounts of duty collected on each article or class of articles; the inward and outward movement of tonnage in our foreign trade, and the countries whence entered and for which cleared, distinguishing the nationality of the foreign vessels. This bureau also collects information in regard to the leading commercial movements in our internal commerce, among which is the commerce of the Great Lakes, the commercial movements at interior centres, at Atlantic, Gulf and Pacific ports, shipments of coal and coke, ocean freight rates, etc. This statistical information is published in various reports of the Bureau, the most important being the (1) Monthly Summary of Commerce and Finance, (2) the annual report on Commerce and Navigation, and (3) the Statistical Abstract (annual).

(b) *Bureau of Manufactures.* This Bureau was provided for by the act of 1903 which created the new Department of Commerce and Labor, but was not organized until 1905. The act defines its duties in the following terms: "It shall be the province and duty of said Bureau, under the direction of the Secretary, to foster, promote and develop the various manufacturing industries of the United States, and markets for the same at home and abroad, domestic and foreign, by gathering, compiling, publishing, and supplying all available and useful in-

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formation concerning such industries and such markets, and by such other methods and means as may be prescribed by the Secretary, or provided by law. And all consular officers of the United States . . . are hereby required, and it is made a part of their duty, under the direction of the Secretary of State, to gather and compile from time to time, useful and material information and statistics, . . . and to send, under the direction of the Secretary of State, reports as often as required by the Secretary of Commerce and Labor of the information and statistics gathered and compiled." The name of the Bureau and that part of the law above quoted would seem to indicate that the promotion of American industry is the primary, and the advancement of American commerce is the secondary purpose of this bureau. Since, however, the interests of the former are being adequately cared for by the United States Census which has been organized into a permanent bureau, this naturally causes the Bureau of Manufactures to emphasize the commercial interests of the country. This inference is also easily deduced from the assertion of the Chief of the latter Bureau who states in his first annual report that "it has been the special aim of the Bureau to inform our business men of the conditions in foreign markets, the character and style of imported goods consumed, the tastes and habits of the people, and to furnish them with such other information of like character as would be useful in the introduction of American products."

The information gathered by this Bureau reaches

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the public largely through the "Consular and Trade Reports," the publication of which was transferred on July 1, 1905, from the Division of Consular Reports of the Bureau of Statistics to the Bureau of Manufactures. These reports have been issued monthly since 1881 and daily since 1897, the former now being a compilation of the latter. The information contained in these publications is derived from American consular and diplomatic officers, from the special commercial experts or agents already referred to, and from various other sources. The Bureau also publishes the volume on the "Commercial Relations of the United States" which has appeared annually since 1855.

129. United States War Department.—While the War Department is not supposed to be actively engaged in promoting commercial interests, it does in many ways have an important influence along these lines, especially through its Engineering Department and its Bureau of Insular Affairs. The former is charged, among other things, with the river and harbor improvements, with military and geographical explorations and surveys, with the survey of the lakes and with any other engineering work specially assigned to it by acts of Congress or orders of the Secretary of War. Conspicuous among its present duties is the construction of the Panama canal.

To the Chief of the Bureau of Insular Affairs, under immediate direction of the Secretary of War, is assigned all matters pertaining to civil government in the island possessions of the United States

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subject to the jurisdiction of the War Department. The Bureau is the repository of all the civil records of the Philippines and of the late government of occupation of Cuba, as well as of the records of Porto Rico during the time in which the War Department exercised jurisdiction over that island. It makes a comptroller's review of the expenditures and receipts of the Philippine government, and prepares final statements for presentation to Congress of all such accounts. It makes the purchase and shipment of supplies in and from the United States for the Philippine government, and a preliminary audit of all such expenditures of Philippine government funds in the United States is made in this Bureau before final accounting of the same to the Philippine government. It has charge of appointments to the Philippine civil service, including arrangements for transportation of employees and their families. It gathers complete statistics of insular commerce, imports and exports, as well as of shipping and immigration, and quarterly (formerly monthly) summaries of the same are published and distributed. The Bureau of Insular Affairs is part of the machinery of the Philippine government, and is the only office in the United States in any way charged with the civil government of the Philippine Islands.

130. Trade Commissions.—Commissions for the investigation of commercial and industrial conditions in foreign countries are another important source of commercial information and have been influential in furthering commercial relations be-

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tween certain countries. Such commissions have sometimes been undertaken by private or semi-public organizations, like the Philadelphia Commercial Museum, and less frequently by individuals or under individual initiative, an example of which is the Moseley commission of England which recently undertook an investigation of commercial and industrial conditions in the United States. The governments of England, France, Germany and other important commercial countries have also, at different times, appointed such commissions. The field of their operation has generally been in Eastern Asia, in different parts of Africa, or in other localities where industrial possibilities are important but undeveloped, and where industrial information is less definite than in the more advanced countries of the world. Bills calling for appropriations to carry on investigations in foreign countries, especially in the Orient, have been introduced in the American Congress from time to time, but have failed to become laws. Finally, it may be mentioned that various trade congresses and conventions, which are either called by governments or by private organizations such as the Pan-American Congress of 1890, or the Foreign Commerce Convention of 1907 at Washington, have had more or less influence in developing international trade relations.

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SUGGESTIVE TOPICS AND QUESTIONS

1. What is the exact relation between the Bureau of Trade Relations and the Bureau of Manufactures as regards consular reports? May the latter communicate directly with consuls?

2. May a consul ever act officially without an exequatur? Suppose a foreign government should refuse the exequatur? May it do so without a good reason? Suppose the home government does not think the reason a valid one? (texts on Inter. Law; also Con. Reg. of U. S.)

3. Referring to the Executive Order of June 27, 1906 (Sec. 12) suppose that Illinois is entitled to an additional consul and Indiana is not, but of two candidates from these states the one from Indiana passed the better examination, what would happen?

4. Is there anything to be said in favor of the "spoils system" as applied to the United States Consular service? How does the American service compare in efficiency with the European service? If favorably is this an argument in favor of the "spoils system?"

5. Explain the statement in the text that inadequate compensation resulted in the exaction of excessive fees and in the creation of consular agencies in order to increase salaries.

6. In the matter of consular appointments is the important thing to give every one a show or to get good men? Suppose every one were allowed to take the consular examination and one million young men took the examination annually. Would this be desirable? Would there be any more assurance of good appointments than under the present plan?

7. What is meant by the statement that a consul is accredited by the Secretary of State? (texts on Inter. Law; also Con. Reg. of U. S.).

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8. If a consul engage in trade is he entitled to the general *immunities* of his office? (Coppell v. Hall, 7 Wall [U. S.] 553).

9. What was the law of 1864 relating to consular clerks? What was its purpose? Was its purpose fulfilled? (R. S. of U. S., Sec. 1705; also Foster's Practice of Diplomacy).

10. What are the duties of British commercial attachés? Is there more reason for such attachés in the British than in the American diplomatic service? (House Doc. No. 245, 58th Cong. 3rd session).

11. What are the views of the following regarding the appointment of commercial attachés in the American diplomatic service: President Roosevelt, Ex-Assistant Secretary of State Loomis, Consul General Mason, Ex-Ambassador Porter and Ministers Hill and Jackson? (Consult reference in preceding question).

12. What is the present cost of the Consular service to the United States government? Is it greater now than under the old law? If so, is this an argument against the present law?

13. What check has the Government on the fees received by a consul? (Law of Apr. 5, 1906, Sec. 1).

14. The American law allows annual leaves of absence. Suppose a consul does not avail himself of this one year may the length of his leave be doubled the next year? Suppose a consul in Class III. is on leave, what is the salary of the vice-consul during his absence? Suppose the consul is absent longer than sixty days? (Con. Reg. of U. S.).

CHAPTER XV.

QUASI-PUBLIC AND PRIVATE TRADE-PROMOTING INSTITUTIONS

131. General.— Besides the governmental trade-promoting agencies already considered there are various other institutions of a private or quasi-public character which have for their primary aim the advancement of foreign commerce and commercial relations. Among such agencies may be mentioned commercial museums, information bureaus, export sample warehouses, domestic chambers of commerce in foreign countries, export banks, export syndicates or companies, foreign mercantile agencies and domestic chambers of commerce and boards of trade. Perhaps also in this category we should include various trade associations, customs brokers and the three important agencies by means of which foreign purchases and sales are usually made. (1) offices established abroad and either in the hands of natives or foreigners; (2) domestic traveling buyers or sellers in foreign countries; or (3) foreign buyers or sellers traveling outside of their country. The larger importers and exporters often buy and sell in all three ways. Such agencies, however, belong rather to the technique than to the politics of foreign trade.

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132. Commercial Museums and Bureaus of Information.— A commercial museum, in its restricted sense, is a depository in which are found samples of commercial products from different parts of the world, arranged geographically, with reference to their degree of manufacture, alphabetically or in some other manner which meets the convenience of merchants and aids them in furthering their foreign trade relations. Since, however, the information conveyed by mere samples is entirely inadequate for the practical use of merchants, the scope of many commercial museums has been greatly extended by the addition of various bureaus which give information to the exporter regarding general or special trade conditions, customs duties and regulations, freight rates, credit of individual firms, etc. in particular countries. The enormous expense involved in the collection, storage, maintenance and keeping up to date of samples of commercial products has caused this feature of the work to be minimized and emphasis to be laid upon the collecting and imparting of commercial information. In fact, many institutions of this kind have given up the first named function.

Commercial museums on an enlarged plan have been organized in recent years in several European countries, in Japan and in the United States. The most important one in this country and probably the largest institution of its kind in the world is the Philadelphia Commercial Museum, which has served as a prototype for similar institutions both in this country and abroad.

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133. The Philadelphia Commercial Museum.—

This establishment owes its existence largely to the untiring energy and perseverance of its director, Mr. William P. Wilson. It was established by a municipal ordinance in 1894 and is supported by annual municipal appropriations, by occasional state and federal grants, by membership subscriptions and gifts, especially of exhibits from various expositions, notably from the World's Columbian Exposition in 1893. The government of the museum is administered by a board of trustees who are appointed for life and serve without remuneration. The work of the Institution is supervised by an advisory board composed of representatives of the most important trade organizations of the country. The principal purpose of the museum is to assist American manufacturers and merchants in securing foreign markets, in forming connections abroad and in putting foreign buyers in touch with American sellers. Its service to its members includes (1) furnishing lists of foreign importers, dealers and large consumers together with their reputed commercial standing, (2) supplying reports on trade conditions, business opportunities, and new enterprises, this information being imparted in the form of type-written reports, special publications, or personal letters, (3) carrying on special trade investigations in foreign countries, (4) advising as to the establishment of foreign agencies and rendering assistance in securing reliable agents, (5) notifying home merchants of all inquiries from foreigners desiring to purchase American goods, (6) translating

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business correspondence, etc. The Institution has probably the most complete commercial library and collection of commercial samples in the world. It maintains a weekly bulletin and a monthly periodical besides publishing from time to time extensive trade reports, statistical data, charts, etc. From its immense store-house of sample commercial products it has distributed to secondary schools several hundred collections with photographs for the purpose of facilitating instruction in commercial subjects such as commercial geography. The plant of the museum, located in West Philadelphia, consists of several brick and steel buildings besides other structures.

134. Export Sample Warehouses.—Export sample warehouses are warehouses containing samples of domestic goods. They may be located either at home or abroad but differ from commercial museums in that the collections of the latter consist more particularly of foreign samples. The general purposes of both institutions are, however, the same—the extension of foreign markets, but their point of departure is different. Commercial museums serve, in the first instance, domestic producers by showing them what articles must be manufactured and how they must be prepared in order to meet the needs and tastes of foreign purchasers, while export sample warehouses are institutions which are primarily concerned with foreign consumers since they make them acquainted with domestic goods and seek to arrange commercial connections between them and home merchants and manufacturers.

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These organizations, therefore, not only serve as advertisers but also frequently undertake the rôle of agents since orders are often accepted by them and the goods delivered through their intermediation. While export sample warehouses do, in many cases, meet the demands of business they have hardly fulfilled the highest expectations. International competition is generally so intense that the personal visits of experienced commercial travelers with attractive samples and favorable credit conditions produce more practical results.

The first export sample warehouse was organized in Stuttgart in 1881. It soon established branches in other cities of Germany and in foreign countries, especially in the Levant. Similar institutions have been organized in other domestic and foreign trade centres under German management, the one at Berlin, founded in 1877, combining the features of a sample warehouse and information bureau. Other European countries have followed Germany's example. Two export sample warehouses have been established in recent years at Caracas and Shanghai under the auspices of the National Association of Manufacturers of the United States but both have been given up. Warehouses containing samples of American goods have also been established in other foreign trade centres by private individuals who generally combine the function of agency with that of exhibiting samples.

125. Domestic Chambers of Commerce in Foreign Countries.—Home business men often establish chambers of commerce in important com-

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mercial centres of foreign countries where they temporarily reside or have business relations. Usually these institutions are voluntary associations although in some instances financial support is given them by the home government. Their organization is generally modelled after similar institutions at home. . . . Several American chambers of commerce have been established in foreign countries the oldest being the one founded in Liverpool in 1801. The American chamber at Paris is one of the most active, while the one at Berlin, founded in 1903, is one of the most recent. The aim and scope of the Berlin chamber—which is typical of all such institutions—is primarily to furnish information on all questions involving trade between Germany and the United States. New laws affecting German-American trade are brought to the attention of members of the association. The governing officers of the chamber consist of a president, vice-president, treasurer, board of directors and secretary, the last-named being the only paid official. Meetings are held regularly for the discussion of trade subjects. The institution is supported by membership subscriptions.

136. Export Syndicates.—A practical method of developing foreign trade is by means of export syndicates. Such associations are found in certain European countries, especially in Italy and in Austria. In the former country an institution of this kind, comprising over one hundred firms, was organized in 1897 for the purpose of developing trade relations with the Orient. The governing body is

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vested in a committee of five with headquarters in Milan. Its principal duty is to arbitrate in cases of dispute and the association is supported by membership fees. Members in carrying on trade in the Orient must employ the agents of the syndicate, who receive stipulated commissions and remuneration for special expenses attached to correspondence, sending of telegrams and the like. A similar export company with a large capital stock was organized in Austria in 1898. The headquarters of the association is at Vienna and branch establishments are located at Trieste and at numerous foreign commercial centres. It carries on an extensive export and import business for its own members and also for non-members, charging the latter a regular commission. Among other ways it furthers foreign trade by making cash advancements upon bills of lading, bills of exchange, insurance policies and the like.

An important export company is represented by the export bank which was formed at Berlin in 1880. It maintains over one thousand reporters in foreign countries who keep the central institution informed regarding the financial standing of foreign firms. The bank undertakes such functions as the adjustment of business enterprises and legal complications, the sending out of commercial travelers, the establishing of agencies, the arranging for exhibits of German goods in foreign countries and the furnishing of such information as is calculated to facilitate the development of Germany's foreign trade. In general its efforts are directed toward the finan-

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cing of German business undertakings in foreign countries.

In this category also belong the great mercantile agencies of modern civilized countries such as Dun and Bradstreet. They are institutions established mainly for the purpose of obtaining information as to the character, personal responsibility and financial standing of individuals, firms or corporations. Their estimate in these respects, derived from the reports of their agents, is known as "commercial rating" and is furnished to subscribers for a moderate consideration. The scope of these institutions has developed from a local or national to an international character.

137. Miscellaneous Trade-Promoting Institutions.—There is a large number of trade associations in different countries the activities of which are more or less directed toward the development of foreign trade—such as boards of trade or chambers of commerce. While these associations in inland cities are primarily interested in domestic commerce, chambers of commerce located in commercial centres like New York, Liverpool or Hamburg are largely engaged in promoting the interests of foreign commerce.

Many national associations like the National Association of Manufacturers of the United States are active in the promotion of trade with foreign countries. The intensity of their activity in this direction depends largely upon the national economic trend. In countries like Great Britain or Germany, for example, where the interests of foreign com-

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merce are relatively very important we find national industrial or commercial associations of all kinds more solicitous for foreign trade than similar institutions in a country like the United States where, up to the present time, the interests of domestic commerce more largely predominate. Finally we find a large number of merchants in the great commercial centres of the different countries whose dealings are world-wide. Many of these do not rely, except incidentally, upon the various private or public trade-promoting agencies, but create such institutions on their own account. It is said, for example, that Mr. Armour the great grain dealer of Chicago, has agents in all the important grain-producing and grain-consuming countries of the world with whom he is in constant communication.

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Board of Trade; (3) French National Office for Foreign Trade (Art. "Trade Organizations" in Encyc. Brit.).

2. What official organizations do England, France and Germany have for the promoting of their colonial trade? (Same reference as in question one).

3. Explain the scope and organization of British and French chambers of commerce in foreign countries. Does Germany favor such institutions? (Same reference as in question one).

4. Is a merchant, like Mr. Armour, who maintains special agents all over the world in any better economic position than the man who relies for his information on various public and private trade-promoting agencies such as those mentioned in the text? If so, does this mean that the many who rely on the latter are to succumb to the few who are able to maintain the former?

5. Is the work of the commercial museum duplicated by other public or private agencies? How about Mercantile agencies?

5. Does the government of the United States do anything in the way of collecting and distributing commercial samples? (Consult report for 1906 of the chief of the Bureau of Manufactures).

7. Describe the organization of a mercantile agency like Dun or Bradstreet. What does it do to foster foreign trade?

8. Study the annual proceedings, constitution and by-laws of some chamber of commerce like New York, Boston, Philadelphia, or Liverpool, and note in what ways the interests of foreign trade are promoted by one or more of them.

9. Can you give any examples of American consuls establishing export sample warehouses in their consular districts (see index to Consular Reports)?

10. Can you give the history of the sample warehouses established at Caracas and Shanghai by the National Association of Manufacturers of the United States a few years ago? (Index to U. S. Con. Rep.).

CHAPTER XVI.

COMMERCIAL STATISTICS, BALANCE OF TRADE AND FOREIGN EXCHANGE

138. Definition of Commercial Statistics.—Statistics are a description of any class of facts expressed by means of figures. Commercial statistics therefore have to do with the numerical representations of the facts of commerce. They relate both to domestic and foreign commerce but inasmuch as goods passing the frontier are subject much more efficiently to statistical control than those figuring only in the internal trade of a country, commercial statistics have to do primarily with the facts of foreign commerce although in recent years the more advanced countries have improved their method of collecting and classifying statistics referring to domestic commerce. Commercial statistics might be characterized as an instantaneous photograph of commercial conditions expressed in figures. Their increasing reliability and accessibility coupled with growing competition in the field of commerce tend to render them more and more important both to the individual merchant, by furnishing data which enable him to undertake business transactions more intelligently, and to the government, by providing it with facts which help it in carrying out more in-

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telligently its policies regarding commerce and industry.

139. Classification of Commercial Statistics.—Commercial statistics to be of value should give detailed and properly classified information regarding trade. This should include the "general commerce," that is, all merchandise both in sum totals and by articles, which pass the frontier as exports and imports, and the "special commerce" which comprises only that part of the imports which is consumed in the country and those exports which are of domestic origin. Commercial statistics should also give specific information concerning imported merchandise remaining in warehouses and that part entering *in transitu*. They usually register imported and exported merchandise not only by sum totals and by articles but also by customs districts and by countries as well as that which is dutiable and free of duty, with the percentages of each. With reference to the degree of manufacture a common statistical classification in many countries is that of food products, raw materials for manufacture, half-manufactured products, and manufactures. The values of American imports and exports by articles, grouped according to the degree of manufacture and uses during the year ending June 30, 1906, are, according to the new classification adopted July 1, 1906, as follows:

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	IMPORTS				EXPORTS			
	Free of Duty		Dutiable		Free and Dutiable		Per Cent.	
	Dollars	Per Cent.	Dollars	Per Cent.	Dollars	Per Cent.		
Group A. Food stuffs in crude condition and food animals	114,305,015	20.80	20,010,423	2.96	134,315,448	10.95	177,216,467	
Group B. Food stuffs partly or wholly prepared	3,348,670	.61	137,009,444	20.24	140,358,114	11.44	347,385,462	
Group C. Crude materials for use in manufactures	306,900,952	55.77	108,187,047	15.98	414,687,999	33.81	500,536,700	
Group D. Manufactures for further use in manufactures	91,172,472	16.59	120,126,279	19.08	220,298,751	17.96	226,210,513	
Group E. Manufactures ready for consumption	28,907,654	5.18	279,203,900	41.26	307,801,154	25.10	459,812,696	
Group F. Miscellaneous	5,782,105	1.05	3,311,875	.48	9,100,980	.74	6,791,584	
Total	549,623,878	100	676,938,568	100	1,226,562,446	100	1,717,953,382	

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In the commercial statistics of most advanced countries gold and silver coin and bullion are separated from other forms of merchandise. While such statistics admit of various groupings and classifications to meet local or national demands, in a general way, the method followed has reference to the needs of a nation's revenue.

140. General Methods of Obtaining Commercial Statistics.—Statistical information regarding commerce is based upon one or more of the elements of weight, measure or value. For some commodities, such as coal or iron, weight is the important factor; for other articles, like grain, petroleum or eggs, measure is the chief characteristic, while for many objects, like diamonds and other precious stones, value is the more important attribute. Statistical information, however, generally registers both value and either weight or measure. Thus coal or iron shows the value per ton, grain or eggs the value per bushel or dozen and diamonds the value per carat. The obtaining of statistical information based upon weight or measure is comparatively easy, but that based on value is, for reasons previously stated, more difficult. There are two general methods in vogue for the latter, one may be styled the method of value declaration, the other of value estimation. By the former method the value of goods is based primarily upon the declaration of the exporter or importer at the time goods pass the frontier, customs officials having certain powers to correct manifest inaccuracies in the declared value. Such is the system in vogue in Great

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Britain. By the method of estimation the value of goods is usually determined by an expert commission of manufacturers, merchants and government officials which fixes from time to time for each article an average price, based upon the average price of the article for the preceding year. Such a system is substantially in vogue in Germany, France, Austria-Hungary, Italy and Russia, while Switzerland and Belgium have a combination of both methods of valuation.

141. American Methods of Obtaining Commercial Statistics.—The manner of obtaining commercial statistics in the United States has been suggested in a previous chapter. It is based upon the method of declaration coupled with very extensive supervisory powers granted primarily to the Treasury Department. All merchandise imported into the United States, with few exceptions must be accompanied, as has been said, by an invoice containing ample information regarding the quantity, quality and value of the goods, sworn to before an American consul in the district from whence the goods were exported. These invoice valuations are summarized and issued annually (formerly quarterly also) by the Bureau of Statistics of the Department of Commerce and Labor, under the title "Exports declared for the United States."

The statistical information regarding the foreign commerce of the United States published by this Bureau is furnished by the various collectors of customs of the Treasury Department. The statistics of imports are based upon consular invoices.

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sworn statements of importers and examination and appraisement by customs officials. Export statistics are based upon manifests containing, like consular invoices, ample information regarding the quantity, quality and value of the goods, which must be sworn to by owners and shippers. These returns of foreign commerce are compiled and tabulated by the Bureau of Statistics of the Department of Commerce and Labor and published monthly, annually and at other intervals, the most important publications of the Bureau being the Monthly Summary of Commerce and Finance, the Statistical abstract of the United States and the volume on Commerce and Navigation, the last two being published annually.

142. Difficulties of Statistical Comparisons.—Many obstacles prevent satisfactory statistical comparisons in matters of trade, notably among these difficulties being the diversities in standards of weight, measure, and value. The basis for determining value may be the wholesale or retail price and may or may not include packing, freight, etc. In the United States, as previously stated, value in this connection refers to the wholesale price, including packing, in the country where the goods are purchased. Another confusion arises regarding what constitutes the country of origin and the country of destination. The former may be the country in which the article is produced or manufactured, as is the case in the American statistics, or that from which the article is exported. The country of destination may refer, (1) to the country in which the exported article is finally consumed, (2) to the

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country to which it is sold, or (3) to the country to which it is first shipped. For American cotton shipped via Belgium to a German merchant but intended for consumption in Switzerland the country of destination would be, in the first instance, Switzerland, in the second instance, Germany, and in the last instance, Belgium. The American regulation requires that the country to which merchandise is reported as exported should be the country to which it is destined for a market.

Again, another difficulty in the comparison of commercial statistics is due to the fact that the economic and political boundaries of many countries are not coëxtensive. For example in the United States for statistical purposes the non-contiguous territories are not a part of the Republic.

Finally, the comparison of commercial statistics is rendered difficult by constant changes in political boundaries. American imports and exports at the present time refer to a territory three times as extensive as at the time of the adoption of the Constitution, while in 1871 that part of France known as Alsace-Lorraine was absorbed by Germany so that imports into and exports from those provinces prior to that date were reckoned in the French statistics and since then are included in the statistics of the German Empire.

143. Methods of Statistical Comparisons.—In order to make effectual use of the mass of statistical material the student must simplify this material for purposes of comparison. If the data include incongruous elements they must be reduced to a common

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denominator. One method of making statistical comparisons is to employ percentages. An error is likely to arise by this method from a failure to observe the basal numbers upon which percentages are computed. For example an increase of \$100,000 in the value of the exports of a country whose exports at a previous date were valued at only \$1000 would show a higher percentage of increase than would an increase of over \$200,000,000 in the case of a country whose exports were previously in the same way valued at \$5,000,000. In using percentages one must remember one is dealing with ratios and not with absolute facts.

A second method of statistical comparison is by averages. Exports and imports vary greatly from year to year so that false conclusions might be drawn from a comparison of single years. For example, the value of American imports in 1891 exceeded its value in 1890, while imports in 1893 were much greater in value than those of 1894. From the former one might infer that American imports were increasing in value and from the latter the opposite inference might be drawn. Such inaccuracies are largely remedied by comparing the general average of several years. We find, for instance, that the value of American imports, averaged during the last decade, is in excess of its average value for the preceding ten years. We are more warranted, therefore, than in the instance cited above, of inferring that American import trade is registering an increase in value.

A third method of statistical comparison, which

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is sometimes used to determine variations in general prices for a series of years and especially to show changes which take place in the purchasing power of the precious metals, is the system of index numbers. The prices of a large number of commodities are determined for a given year and each is usually called 100 as a basis of comparison. If one hundred commodities be taken, the index number would then be 100×100 or 10,000. Suppose at the end of the first year the price of twenty commodities has risen ten per cent., on an average, that the price of sixty has fallen five per cent., on an average and that the price of the remaining has remained unchanged. We would then have the following result:

20 x 110.....	2,200
60 x 95.....	5,700
20 x 100.....	2,000
	<hr/>
	9,900

The index number for the second year shows that the general average of prices has fallen one per cent. which means that ninety-nine cents have the same purchasing power as one dollar in the preceding year. To use this method properly one must employ a large number of commodities and the price of each should in the final result be given importance in proportion to the amounts marketed and consumed.

144. Meaning of Balance of Trade.—Balance of trade is a term used to designate the relation between imports and exports. The mercantilists of the sixteenth, seventeenth, and eighteenth centuries,

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with their mistaken ideas regarding the value and functions of money, sought by legislation to create an excess value of exports over imports in order that the difference, which was called a favorable balance of trade, might be paid in money. Similarly an excess value of imports over exports, which necessitated the exportation of money to pay the difference was called an unfavorable balance of trade. While we still use these terms in the same sense as the mercantilists did and there is still more or less of a popular idea that an excess value of exports over imports is a good thing in itself, it has been demonstrated again and again that one may draw no general conclusion regarding a nation's prosperity from the excess value of its imports or exports. Two illustrations will suffice to make this clear. The value of the exports of the United States in recent years has annually exceeded the value of its imports by over \$500,000,000 while for the same period the value of the imports of gold and silver into this country has only exceeded the value of the exports by about \$10,000,000. Similarly the annual excess value of British imports over exports is about a billion and a quarter dollars and at the same time she is actually importing more gold and silver bullion than she is exporting. A practical explanation of these phenomena will be found in a more careful study of the invisible as well as the visible exports and imports.

145. Visible Exports and Imports.—In enumerating the various factors which constitute a part of the trade balances the first place should be given to

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material or visible exports and imports which determine the balance of trade in the mercantilist or narrow sense. These usually comprise not only the total values of all goods passing the frontier (general commerce) but also generally differentiate the goods into imports entered for consumption, for warehouse or for the transit trade and exports of domestic and foreign merchandise. Gold and silver coin and bullion usually constitute a special class of exports and imports and are separately enumerated. The accuracy of visible trade balances depends, of course, upon the trustworthiness of commercial statistics and the reliability of the latter depends primarily upon the general purpose of the customs law, whether for protection or for revenue, the effectiveness of tariff administration and the character of imported goods, many articles of great value and small bulk escaping valuation altogether.

146. Invisible Exports and Imports.—(a) Payment for transportation charges in the form of freight and insurance does not figure directly in trade statistics but this factor is of great importance in explaining international trade balances. It is estimated, for example, that English ship owners receive for transporting foreign goods and passengers between \$400,000,000 and \$500,000,000 which sum is eventually paid for in goods and goes to swell British import figures. On the other hand, it is estimated that American exporters pay foreign ship owners over \$200,000,000 for carrying about ninety-two per cent of their exports. This service is

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largely paid for in goods which tend to swell the value of American exports.

(b) The inhabitants of some of the more advanced countries, particularly those of Western Europe, often make investments or loans in foreign countries, especially in the newer countries having large resources and stable political and industrial conditions. The profit on such investments or the interest on such loans is paid for in commodities which tend to increase the visible exports of the borrowing and the imports of the loaning nations. It is estimated that England's investments and loans in foreign countries and in her colonies bring her about \$400,000,000 annually, while the United States, on the other hand, owes foreign investors over \$3,000,000,000 representing an annual charge of at least \$120,000,000 which is largely paid for by the exportation of commodities.

(c) A country may act in the capacity of broker or commission agent for other countries or serve as a general entrepôt. England is an example *par excellence* in these respects. The international banking business of the world is carried on to a large extent through the London banks which act as the world's great clearing house in matters of international trade. England also serves as a general entrepôt where goods from her colonies and other parts of the world are collected for further distribution. For these various services England derives a large income which is paid for in part by imported commodities.

(d) Again remittances are sent to persons liv-

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ing or traveling abroad and also by immigrants to their native countries which amounts in the aggregate to a large sum. Tourists spend at least \$40,000,000 annually in Switzerland, over three times that amount in France and large sums in Italy, Norway and other countries. It is estimated that Americans spend annually at least \$50,000,000 in foreign travel and millions of dollars are sent every year to foreign countries by immigrants in the United States.

147. How Balances are Adjusted.— Foreign bills of exchange are orders for the payment of money in foreign countries. Merchants selling goods abroad draw bills of exchange upon their foreign customers and sell these bills to exchange brokers or bankers who make a business of dealing in foreign exchanges and maintain branch offices in several countries. These bills are bought and sold like any other article of international trade the rate of exchange varying with the relative value of imports and exports. If the importation and exportation of goods between two countries are of equal value for a given period exchanges are said to be at par, as one balances the other. If the value of goods imported exceeds the value of those exported there will be an increased demand for foreign bills of exchange to pay for the balance owed to foreigners. The rate of exchange will rise but not above the point at which it would be more profitable to ship gold abroad. Inversely, if the value of goods exported is greater than the value of goods imported the rate of exchange will show a tendency to fall.

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In the former case exchange is said to be above and in the latter case, below par. The subject of foreign exchange is a complicated one, involving not merely the value of exports and imports but other factors, such as foreign investments, charges for freight, insurance, banking facilities, etc. It is not a question between two countries. Excess of exports in one country is cancelled by excess of imports in another and in the various transactions London figures as the great clearing house of the world.

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SUGGESTIVE TOPICS AND QUESTIONS

1. By the method of declaration exporters tend to undervalue goods. Why? By the method of estimation would manufacturers, who are members of a government export commission, tend to undervalue or over-value im-

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ported goods which compete with home products? Why? What effect would this have upon the value of statistics?

2. A fee of \$2.50 is required for the authentication of consular invoices. Such an invoice is not required for imported goods valued at less than \$100. May importations be broken into small lots in order to escape the payment of the fee? How does this exemption affect import statistics? (Con. Reg. of U. S., Sec. 661).

3. Compare for a number of years the total value of "exports declared for the United States" with the total value of imports into the United States. Why are they not the same?

4. Our total foreign commerce was valued in round numbers for 1891, 1892 and 1893 at \$1,729,000,000, \$1,857,000,000 and \$1,714,000,000 respectively. Comparing the years 1891 and 1892 are we to conclude that our foreign trade is increasing? How about the years 1892 and 1893? What is wrong with the method?

5. What is the meaning of the expression "figures do not lie, but liars figure?"

6. What bureaus or divisions of the federal government are engaged largely in the compilation of statistical matter? (Art. "Statistics" in Univ. Cyc.; also appendix of the Doc. Catalog). Do any states of the American Union issue statistical publications?

7. Why are import valuations apt to be too high and export valuations too low in a country like England, having a large merchant marine and a long sea carriage?

8. Does freight figure more prominently in raw materials than in manufactured articles? How would this be likely to affect values?

9. What was the classification of American imports and exports prior to 1906? (See Statis. Abs. of U. S. and volume on Com. and Nav.). What is the purpose of the new classification? (Com. and Nav. of U. S., 1906, p. 15).

10. May a country show an unfavorable balance of trade for many months of a year but for the total of the year a favorable balance? Give an illustration.

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11. How may political events such as a war affect trade balances? (Nicholson, Vol. II., Bk. III., p. 273).

12. It is often stated that the total value of exports must equal the total value of imports. How do you explain the fact that the total imports of the world exceed in money value the total exports? (Nicholson, Vol. II., Bk. III., p. 275; Giffen's *Essays on Finance*, 2nd series, p. 164; Gide, p. 295, note).

13. Make an analysis of the trade balances of France (Gide, p. 297), Germany (Conrad's *Handwörterb.*, Art. "Handelsbilanz"), England and United States. (Ashley's *Tariff Problem*; Money's *Elem. of Fiscal Problem*; Bullock's *Economica*.)

CHAPTER XVII.

NAVIGATION POLITICS

148. General.—Navigation is defined as “the science or art of directing the course of vessels as they sail from one part of the world to another.” It is really a branch of the more general subject of “Transportation and Communication,” and in its restricted sense is an important instrument of commerce. From its political side it is so interwoven with the general development of commerce that some writers refer to it as a branch of the general subject of commercial politics. Navigation politics may be defined as state regulation which has for its principal purpose the development of the national shipping interests. These regulations may affect primarily domestic or foreign commerce. It is only, however, in so far as they affect the latter that they may be considered a part of international commercial politics.

Modern navigation politics has been active in three directions: (1) in the maintenance, on the part of certain nations, of jurisdiction over certain portions of the sea (*Mare Clausum*); (2) in the development of the general principle of “freedom of navigation” or right of all nations to unrestricted passage over the high seas; and (3) in the national

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protection of shipping industries against foreign competition (Navigation Laws).

149. Mare Clausum.—The conditions of the ancient world rendered the high seas "open to all for depredation," but during the Middle Ages and the early part of modern history the maritime powers of Europe asserted sovereignty over certain portions of the high seas. England, for example, claimed dominion over the Channel, the North Sea, the seas westward from Ireland, the Bay of Biscay and the ocean north of Scotland; Denmark and Sweden divided the control over the Baltic, and Venice maintained sovereignty over the Adriatic. The growth of commerce after the discoveries, coupled with the exorbitant Portuguese and Spanish claims of sovereignty over nearly all the high seas, led to a reaction against the principle of "Mare Clausum" which found classic literary expression in 1609 in Grotius' great work. England's persistence in her claims of sovereignty over surrounding waters was the cause of much international warfare, especially with the Dutch. Her insistence on the right of search was the nominal cause of the War of 1812. Partly through insensible abandonment and partly because it has been proven that maritime occupation must be effective in order to be valid, the doctrine of *mare clausum* has been curtailed to the maintenance of sovereignty over deeply indented bays or other waters whose natural situation is of national control. Modern international law generally recognizes national sovereign rights over the high seas to a distance of one league from

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shore, but the practical effect of this principle has been largely nullified in recent years by the increased range of weapons of war.

150. Freedom of Navigation.—The right of unrestricted passage over the high seas is now universally recognized. Its growth has abridged the principle of "Mare Clausum" and the latter tends to grow less important in proportion as the former is emphasized. While the principle of free navigation of the oceans and large seas was recognized comparatively early, the growth of the principle as applied to straits, inland seas and navigable rivers was slower. There has been much international controversy regarding the straits leading into the Baltic and Black Seas. Denmark long claimed control over the former, but these claims were satisfied in 1857 by a stipulated payment by the maritime powers of the world. As regards the Black Sea it was Turkish waters until Russia's acquisition of the Northern coast. By the treaty of Adrianople (1829) entrance through the Bosphorus was allowed the merchant vessels of Russia and the Powers friendly to her. The Black Sea was neutralized by the Treaty of Paris (1856), but in 1871 Russia secured the right of maintaining a fleet in the Black Sea, but her war-ships were debarred from passing the Bosphorus. Where a navigable river divides two countries the use of such a river is guaranteed to both countries, and the boundary line is held to run along the middle of the stream. Where navigable rivers rise in one territory and discharge through another terri-

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tory international law does not admit the moral claim sometimes asserted by the upper state to navigate to the mouth. Yet most of such rivers of Christian countries have been opened to world commerce by international agreements. The United States has figured prominently in the opening up and the neutralization of the great rivers and canals of the world. This phase of her commercial politics has already been amply discussed in one of the chapters on Commercial Treaties.

151. Navigation Laws.—The third way in which navigation politics has been, and in many instances still is, active is that of national protection of shipping industries against foreign shipping by means of so-called navigation laws. Such regulations and restrictions were characteristic of the period following the great discoveries and may be regarded as one phase of the application of the principles of mercantilism. These laws have to do largely with such matters as defining the nationality of vessels, the manner of their registration, and in general the privileges which domestic vessels may lay claim to as well as the conditions controlling the participation of foreign ships in the national trade. In efforts to secure for domestic shipping advantages over foreign shipping two general policies have been employed—the policy of *exclusion* and the policy of *discrimination*. By the former plan particular branches or lines of navigation or particular classes of merchandise are reserved exclusively for domestic ships. This policy was first developed in the Italian city republics and in the Hanseatic

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League and was the characteristic feature of the English navigation policy down to the middle of the nineteenth century. By the policy of discrimination foreign ships are allowed to participate in the trade of a country, but they are subjected to tonnage dues and customs duties are levied on their cargoes—burdens from which domestic ships and their cargoes are wholly or partially exempt. This was the characteristic feature of the early American and Prussian navigation policy, while the German Imperial policy as regards navigation is essentially one of free trade with the exception of its coasting trade. The French policy has been varied. During the Revolutionary period (1793-1816) it was essentially a policy of exclusion, but before 1793 and after 1816 it has been one essentially of discrimination with exclusion as a supplementary policy.

152. English Navigation Policy.—While the first English navigation act dates from the time of Richard II. (1381), English navigation politics did not become important until the middle of the seventeenth century, when England had become a great colonial power and was attempting to capture the domestic and foreign carrying trade from other nations, especially from Holland, which at that time was the greatest maritime nation of Europe. The most important English legislation along navigation lines were the laws of 1651, 1660 ("First Navigation Act") and 1663 ("Second Navigation Act"). The chief provisions of these laws were the following: (1) the restriction of the coasting trade to

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English vessels, such a law having been enacted in 1563 and remaining in force until 1854; (2) discriminating (double) duties on the products of foreign fisheries; (3) prohibition against foreigners becoming merchants or factors in the Plantations, (4) the restriction of the foreign commerce of the colonies to national ships with English commanders and with crews three-fourths of which must be English; (5) importations from European countries for certain "enumerated goods" being confined to English ships or to ships owned where the goods were produced or forwarded; (6) likewise goods of the growth, production or manufacture of Africa, Asia or America not being permitted to be imported into England at all except in English vessels having officers and a majority of the crew English. The attempt to enforce these regulations was one of the main causes of several European wars. Although modified from time to time they remained in force substantially unchanged for nearly two centuries, being greatly altered in 1825 and for the most part repealed in 1849.

153. Navigation Policy of the United States.—The navigation policy of the United States has been considered in more or less detail in different parts of the present volume dealing with the subjects of reciprocity, the policy of protection and that of differential duties. Brief repetitions may not, however, be out of place in the present connection. The beginnings of the American navigation policy as expressed in the early treaties of commerce and navigation, were on the basis of "the most perfect

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equality and reciprocity," but after a critical period of several years following the recognition of American independence, during which the new nation suffered not only from interstate discriminations, but also from the exclusion navigation policy of Great Britain, the Constitution was adopted which gave the federal government ample power in matters of commerce and navigation. The United States embarked at once upon a severely discriminating navigation policy. The law of 1789 placed a tonnage duty of six cents per ton on vessels built, owned and manned by Americans, while vessels built in the United States, but owned and manned by foreigners, paid a duty of thirty cents per ton which was raised to fifty cents per ton in the case of vessels built abroad and owned and manned by foreigners. Ten per cent. reduction was allowed from the regular tariff duties if goods were imported in American vessels. This law was changed in 1794 to an extra duty of ten per cent. on importations in foreign vessels. As to the coasting trade the law of 1789 provided that American vessels should pay the tonnage tax only once a year, while foreign vessels should pay it upon every entrance in an American port. This virtual exclusion of foreign vessels from American coastwise trade was replaced, a few years later, by an absolute exclusion.

The registry law of 1789 provided that only vessels built in the United States, belonging to American citizens and having an American master, should

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be deemed ships of the United States and entitled to the benefits of American navigation laws.

These various laws formed the foundation of the navigation policy of the United States. During the early part of the nineteenth century the American government placed more and more restrictions on foreign vessels and their cargoes, owing largely to the hostile legislation enacted by certain European countries, especially by England. As has been stated, the first modification came about 1815 in the way of reciprocity for direct trade, and about ten years later reciprocity was extended to indirect trade with certain countries. From 1830 to 1860 a more liberal policy was pursued, but about the latter date the change from wooden sailing vessels to iron steamships, the depression in freight rates and more lucrative opportunity of investing American capital in other directions caused a rapid decline in American shipping interests. The movement was also accentuated by the Civil War with the attendant depredations on American commerce. Non-discriminating tonnage duties were reenacted during the war, but were considerably modified by the laws of 1884 and 1886 already referred to. Various measures have been proposed or adopted since the Civil War for the purpose of resuscitating the American merchant marine. A discussion of these measures brings us to a consideration of the general subject of steamship subsidies.

154. Character of Shipping Subsidies.—A shipping subsidy, bounty or subvention is a pecuniary, governmental aid to shipping. It may be in the

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form of a construction premium, so much being paid for sailing and so much for steam vessels per ton; it may be an equipment premium such as the free importation of ship-building material; it may be a so-called navigation premium or payment for voyages of a certain kind or for certain purposes; or it may be in the form of liberal payments for certain services rendered, such as that of carrying the mail. These premiums are sometimes in the form of a lump sum and sometimes they consist of annual, monthly, or other periodic payments. Sometimes also payments are made per trip or per ton mile. A government granting subsidies usually requires the rendering of certain services in return: (1) regular voyages, generally monthly, bi-monthly or a certain number per annum; (2) a minimum speed of vessels, usually stipulating for a certain number of miles per hour; (3) certain requirements in the way of the construction and equipment of vessels; (4) the use, whenever possible, of domestic materials in building vessels; and (5) the right of appropriation in times of war upon remunerating vessel owners.

155. History of Foreign Shipping Subsidies.—Bounties were paid as early as 1730 on English vessels engaged in the fisheries, the avowed purpose being primarily political—the training of mariners for the British navy. These bounties were modified from time to time and finally repealed in 1867. Toward the middle of the nineteenth century the growth of English foreign trade and the political as well as economic necessity of better means of

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transportation and communication between England and foreign countries, including also her widely scattered colonial possessions, caused the British government to give pecuniary aid for the development of her steamship service. The subsidy policy was inaugurated in 1839 by a contract with Samuel Cunard for a fortnightly service between England and Halifax. England has continued this policy to the present date. Sometimes these payments have been fixed or lump sums and at other times a sum graded by the amount of mail carried. The latter is in the nature of a subsidy, because such amounts are largely in excess of international postal rates. At the present time the English subsidies amount approximately to £1,000,000 and are for the most part fixed yearly payments to certain lines for the carrying of mail. Germany pays about 10,000,000 marks annually for mail service to Eastern Asia, Australia, East Africa and America. In addition to this, indirect bounties are paid in the form of customs exemptions on ship-building material, as well as preferential railway rates on such material and on many articles exported in German ships. France pays to her shipping interests about 50,000,000 francs annually, largely in the form of postal subsidies and bounties on navigation and construction, but there is no claim, as is the case with German subsidies, that the services rendered are proportional to the amounts paid by the government.

196. Early American Shipping Subsidy Policy.
—The United States began the policy of paying

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subsidies in 1845 by an act authorizing the Postmaster-General to make contracts for carrying foreign mails in American ships. A line to Bremen was established by virtue of this act two years later. The act of 1847 required the Secretary of the Navy to arrange for American ships to carry mail from New York to Liverpool, the West Indies, and Gulf ports and from Panama up the Pacific coast. From these contracts there arose the Collins line, the Pacific Mail Steamship Company and some minor lines. In 1852 the Collins subsidy was increased from \$385,000 to \$858,000 per annum. The governmental requirement was generally for a certain number of trips per year. Competition between the Collins and Cunard lines was severe and caused a lowering of rates. In the struggle the Collins line at first more than held its own, but the loss of its best steamers, the Arctic (1854) and Pacific (1856), coupled with a reduction of the government subsidy to \$385,000 in 1856, and the total abolition of all contracts for carrying mail two years later, caused the failure of this important American line. At the outbreak of the Civil War all American lines to Europe were withdrawn. The government paid no further subsidies until 1866 when \$250,000 was given annually for a line between New York and Rio Janeiro, and in the following year \$500,000 per year was voted to the Pacific Mail Steamship Company for a monthly service to Japan and China via Hawaii. In 1873 a bill authorizing the payment of an additional \$500,000 to the Pacific Mail Steamship Company for double service passed Congress.

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but the company never received this sum owing to the disclosure of the fact that it had used money to influence legislation and because it failed to comply with all imposed conditions. In 1875 the Brazilian and Pacific mail subsidy contracts expired and were not renewed. Although in 1879 an effort was again made to secure subsidies for the Brazilian line, it was not until 1891 that further subsidy measures succeeded in passing Congress. The Collins line had cost the American government \$15,000,000 and the Pacific Mail Steamship Company \$4,500,000, and the United States had little or nothing to show for the expenditure of this large sum of money.

187. Postal Subsidy Act of 1891.—By the act of 1891 mail subsidies on a mileage basis were to be paid as follows: For first-class steamers (iron or steel screw steamships of at least 8,000 tons registry and capable of maintaining a speed of twenty knots an hour), \$4 per mile; second-class steamers (iron or steel steamships of at least 5,000 tons burden and capable of maintaining a speed of at least sixteen knots an hour), \$2 per mile; third-class steamers (iron or steel steamships of at least 2,500 tons and capable of maintaining a speed of fourteen knots an hour), \$1 per mile; and fourth-class steamers (iron, steel or wooden steamships of at least 1,500 tons and a minimum of twelve knots per hour), 66 2-3 cents per mile. Besides these subsidies American vessels are paid \$1.60 a pound for carrying first-class mail matter and 8 cents a pound for second-class matter, while foreign vessels are only paid the international postal rates of 44 cents and

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4½ cents per pound respectively. None but ships of the first class were eligible to carry mails between the United States and Great Britain, and such ships were forthcoming only after the changing of the registry laws of the United States in 1892 whereby two foreign built vessels, the *City of Paris* and the *City of New York*, owned by the International Navigation Company, largely an American concern, were admitted to American registry upon the agreement of the company to have two similar ships built in American ship yards. Ocean mail contracts for ships of the second, third, and fourth classes were made with several lines running to Central and South American ports and to Eastern Asia, but in all cases such contracts were formed with lines already existing. However, this legislation was, according to Marvin, of unquestionable value in improving the character of the American fleet. Since 1891 almost every session of Congress has witnessed the introduction of bills having for their main purpose the resuscitation of the American merchant marine. Conspicuous among these measures are proposals for the payment of various kinds of cargo and mail subsidies, and although those interested in aiding the shipping interests of the country have had powerful influences to push their claims, the unpopularity of these measures, especially in the South and Middle West, has prevented the passage of any effective remedial legislation. Professor Garner in commenting on the situation in a recent number of the *North American Review* says: "The decline of the American merchant

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marine from a position of maritime supremacy to a position of comparative insignificance is one of the commonplaces of American economic history. It is encouraging to note that at no time since the disappearance of the flag from the high seas, however, has there been more general demand for the revival of the merchant marine than at present. At the last session of Congress no less than three measures were enacted in the interest of American shipping. One of these requires all supplies for the use of the army and navy to be carried in American vessels; another extends the application of the coasting-trade laws to all trade between the United States and the Philippines; the third created a commission to consider and recommend legislation for the development of the merchant marine and the amelioration of the condition of those engaged in seafaring trades." This Merchant Marine Commission, sometimes referred to as the Gallinger Commission from the name of the chairman, after due consideration of the subject, made its report to Congress on January 5, 1905. The majority favored an operating subvention of \$5 per ton annually, a further extension of the postal subsidy law of 1891 and a tonnage tax on foreign vessels entering American ports, while the minority recommended discriminating import duties and a reduction of the tariff on imported ship-building materials. As already stated no legislation embodying part or all of these recommendations has succeeded in passing Congress.

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158. Arguments for and Against Navigation Laws.—As regards the general subject of navigation politics it may be said that the arguments for or against navigation laws are much the same as those used by advocates and opponents of the general policy of protection. As a general principle of economics, if we can justify protection to manufactures and agriculture, we certainly cannot deny the right of navigation to an equal consideration. It is not, however, a theory or a principle so much as it is a condition which confronts one. As regards the practicality of navigation laws no universal rule can apply. The question here is—and it is the same for all kinds of protective measures—whether, all things considered, navigation protection conduces to the permanent maintenance and development of the efficiency of the national shipping. As an economic question in the United States it is argued that a merchant marine is extremely desirable mainly for two reasons—firstly, because it would mean an annual saving of about \$200,000,000 now paid in the form of freights to foreign ship owners and, secondly, because the rehabilitation of the merchant marine would cause an extension of American commerce on the ground that “trade follows the flag.” For both of these reasons it is argued that there would be “an enlargement of the opportunities for American capital and labor.”

In reply to these arguments it is asserted—and this is not denied—that foreigners carry American products because they can both construct and operate ships cheaper than can be done in the

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United States, and for these reasons they can afford to carry American products at rates that would be unremunerative to American capital and labor. Stated in a little different way, it is asserted that Americans do not build and operate their ships because the opportunities of investment are so much more favorable in other lines.

The political arguments in favor of a merchant marine for a country like the United States are two-fold. In the first place, the merchant marine serves as a school for sailors, and sailors are necessary for a proper personal equipment for the navy, and in the second place the efficiency of the navy is much weakened without the use of merchant ships as colliers, scouts, transports, despatch boats and the like. One may well question the validity of the economic arguments for navigation laws as applied to the United States, but the political arguments are not so easily answered.

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SUGGESTIVE TOPICS AND QUESTIONS

1. Discuss in detail the effects on American shipping interests and commercial policy were the United States to resort to discriminating tonnage duties (*Congressional Record* for 1905, 1906 and 1907).

2. Give examples to show that a nation of sailors wins in naval warfare.

3. Was Adam Smith opposed to the general principles of mercantilism? Are navigation laws one application of these principles? What was Smith's position regarding the English navigation acts? Cite the views of other English economists on this point.

4. Give other examples than those mentioned in the text of national claims over high seas.

5. English coasting trade is open to all vessels both domestic and foreign. Do many foreign vessels engage in this trade in England?

6. Chief provisions of the English and American laws regarding the registry of ships? ("Shipping Law" in *Univ. Cyc.*).

7. What change in American ship registration was advocated by Ex-President Cleveland? What effect would

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the adoption of his view have upon American shipbuilders? Upon American ship owners? (Mess. of Pres.)

8. Are there any evidences that Americans own vessels which are built abroad and fly the flag of a foreign country? Could our law be changed to remedy such a situation?

9. How does the German regulation regarding coast-wise navigation differ from the English and American law? (Elster's *Wörterb der Volksw.*, II., pp. 470-471).

10. If a large part of American exports and imports were carried in American bottoms would there be any guarantee that ocean rates would be lower than under existing conditions?

11. Were the United States navigation laws of 1789 the result of a compromise? (Well's *Our Merchant Marine*; also his article on Navigation Laws in *Lalor's Cyc.*).

12. Who was Hugo Grotius? What did he write? In what language? What has been the influence of his work? (Any *Encyc.*).

14. Construct a diagram showing the decline in the United States merchant marine during the past sixty or seventy years. (*Statis. Abs. of U. S.*).

CHAPTER XVIII.

PUBLIC NAVIGATION-PROMOTING INSTITUTIONS

159. General.—In a previous chapter reference has been made to certain public trade-promoting institutions which are to be found with variations to meet local conditions, in the national administration of all civilized governments. Likewise there are certain administrative and executive offices in modern states which have for their primary purpose the regulation and development of shipping interests. In the United States most of these offices or institutions are either a part of the Department of Commerce and Labor or of the Treasury Department. Under the former may be mentioned the Bureau of Navigation, Shipping Commissioners, Steamboat-Inspection Service, Light-House Board and the Coast and Geodetic Survey, while under the Treasury Department in addition to important services rendered shipping interests by customs officials and treasury agents, some reference should be made to the part played in this field by the Public Health and Marine Hospital Service, the Life-Saving Service and the Revenue Cutter Service. While a comprehensive treatment of the navy is outside the scope of the present work some mention should be made of the important part played by this branch

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of the public service in furthering the commercial and navigation interests of a country.

160. Bureau of Navigation and Shipping Commissioners.—The Bureau of Navigation was established under the Treasury Department in 1884 and was transferred to the Department of Commerce and Labor upon the organization of the latter into a special department in 1903. This Bureau has general supervision over the merchant marine and merchant seamen of the United States. In particular it is charged with the decision of questions relating to the registry, enrollment and licensing of vessels, and the filing of these documents, with the supervision of laws relating to the admeasurement, letters and numbers of vessels and with the final decision of questions concerning the collection and refund of tonnage taxes. It may change the names of vessels and must prepare an annual list of them. It renders each year a report to the Secretary of Commerce and Labor upon the operation of all laws relating to navigation.

Furthermore, it has supervision over the Shipping Commissioners who are stationed at all the principal American ports. Their duties are to supervise the shipping articles or contracts between seamen and masters regarding wages, description of voyage and terms of service. They also enforce the laws for the protection and relief of seamen in matters such as seaworthiness and the provisions of vessels, damages for unjust treatment, discipline and the punishment of mutiny and other crimes. At the small-

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ler ports the duties of the shipping commissioners are performed by customs officials.

161. Steamboat-Inspection Service.—The United States government provided for the inspection of steamships as early as 1839. The service was reorganized by an act of 1852 and placed under the general direction of the Secretary of the Treasury. It was transferred to the new Department of Commerce and Labor in 1903. This service is charged with the duty of inspecting steam vessels, and the licensing of ship officers and has general administration of the laws relating to vessels and their officers so far as they have to do with the protection of life and property. At the head of the service is an inspector-general; under him are ten supervising inspectors, each of whom has control over local inspectors within an assigned district. The supervising inspector-general and the supervising inspectors constitute a board which meets annually at Washington and establishes regulations for carrying out the provisions of the steamboat-inspection laws.

162. Light-House Board.—This branch of the national administration was organized in 1789 but the present establishment is substantially based upon the law of 1852. It was transferred from the Department of the Treasury to that of Commerce and Labor in 1903. The administrative duties of this board include the construction and maintenance of light-houses, light vessels, light-house depots, beacons, fog signals, buoys, and their appendages as well as the preservation of all records and property

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appertaining to the light-house establishment. There are at the present time sixteen light-house districts and approximately 1,500 light-houses and beacon lights, 50 light ships, 2,000 post lights and 6,000 buoys with 40 steam tenders, 1,600 keepers, 1,200 men in the crews of vessels and 1,600 laborers in charge of post lights in rivers and harbors. The light-house board consists of the Secretary of Commerce and Labor who is president *ex officio*, two naval officers, two army officers and two civilians. Each district is in charge of a navy and army inspector. The former has charge of all the floating aids to navigation, the supplies of the light stations and the salaries of keepers. He is required to inspect the lights of his district once every three months and to report their condition to the board. The army inspector has charge of the real estate, buildings and apparatus and control over the machinists, carpenters and laborers employed in construction and repair work. Keepers and assistant keepers of light houses are appointed by the Secretary of Commerce and Labor and general superintendence, as above stated, is in control of the light-house board.

163. Coast and Geodetic Survey.—The origin of the Survey dates from a recommendation of President Jefferson in 1807, its scientific organization from 1832 and its present name from 1878. It was transferred from the Treasury to the Commerce and Labor Department in 1903. As at present organized the general management is in the hands of a superintendent with numerous assist-

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ants, and the institution is charged with the survey of the coasts of the United States and includes base measure, triangulation, topography and hydrography, the survey of rivers to the head of tidewater or ship navigation, deep-sea soundings, temperature and current observations along the coast and throughout the Gulf and Japan streams, magnetic observations and researches, gravity research, determination of heights, the determination of geographic positions by astronomic observations for latitude, longitude and azimuth, and by triangulation to furnish reference points for state surveys. The publications of the Survey comprise annual reports, charts upon various scales, including sailing charts of the coasts and harbors, tide tables issued annually in advance, sailing directions covering all navigable waters, etc.

164. Public Health and Marine Hospital Service.—The Marine hospital service is a bureau of the Treasury Department and is charged with the management of marine hospitals and relief stations for the cure of sick and disabled seamen of the American merchant marine. It also has supervision over the national quarantine stations, the investigation and suppression of epidemics and plagues, the collection and dissemination of mortality statistics and sanitary information, the scientific investigation of sanitary problems and the examination of immigrants. The bureau owes its origin to an act of Congress in 1798. In 1870 the service was reorganized and placed in charge of a surgeon-general. The marine hospitals are located in all im-

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portant internal and external ports of the United States including the ports of its new insular possessions. In 1902 the bureau was given the official title of Public Health and Marine Hospital Service.

165. Life-Saving Service.—The life-saving service of the United States was organized in its present form under the Department of the Treasury in 1871. It is in control of a general superintendent who has supervision over the entire service and prepares an annual report on all marine disasters in the United States including disasters to all American vessels in foreign ports. The coast line is divided into districts each under an experienced superintendent who selects keepers for all the stations of his district and is responsible to the general superintendent for their efficiency. Each station force consists of six men besides the keeper. The stations are in operation from September to May on the sea and Gulf coasts and during the navigation season on the great lakes. The purpose of the service is the saving, not only of life but also of property.

166. Revenue Cutter Service.—This service was organized by Congress in 1790 and made a part of the Treasury Department. Its duties consist in the enforcement of nearly every statute relating to national maritime interests. Among these duties may be mentioned the protection of the customs revenue, the enforcement of laws against smuggling and those relating to national quarantine, neutrality, navigation, steamboat inspection, suppression of piracy, robbery and mutiny, protection of seal fisheries, illegal traffic in firearms, and the protection of

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wrecked property and timber reserves of the United States. Its duties also include the enforcement of laws for the suppression of the slave trade and of laws which require life-saving appliances to be kept on merchant vessels. During dangerous and inclement weather revenue cutters are required to cruise along the coasts and render assistance to vessels in distress. Besides fixed duties it is required to perform from time to time such services as aiding the Light House Establishment, the Public Health and Marine Hospital Service, the Coast and Geodetic Survey, the Life Saving Service, etc. Each vessel is assigned a certain district and these districts, being contiguous, cover the entire coast of the United States.

167. Navy Department.—A glance at a list of the various bureaus of the Navy Department suggests many services which this department renders the navigation and commercial interests of the country. Originally the purposes of naval and merchant vessels were united. Early merchant vessels were also armed vessels. The navy has relieved the merchant marine of the burden of defense. In modern times a certain equilibrium is desirable between the navy on the one hand and the navigation and commercial interests on the other. The size of the navy should be in some proportion to the foreign political and commercial interests of a country. It is the best guarantee of peace and the only guarantee of protection in a country like Great Britain, the United States or Germany. The purposes of a navy have been eloquently stated in the annual Presidential

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message of 1904 in the following language: "There is no more patriotic duty before us as a people than to keep the navy adequate to the needs of this country's position. We have undertaken to build the Isthmian Canal. We have undertaken to secure for ourselves our just share in the trade of the Orient. We have undertaken to protect our citizens from improper treatment in foreign lands. We continue steadily to insist on the application of the Monroe Doctrine to the Western Hemisphere. Unless our attitude in these and all similar matters is to be a mere boastful sham we cannot afford to abandon our naval programme. Our voice is now potent for peace and is so potent because we are not afraid of war. But our protestations in behalf of peace would neither receive nor deserve the slightest attention if we were impotent to make them good."

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SUGGESTIVE TOPICS AND QUESTIONS

1. Suppose an American steamship owner does not comply with the provisions of the steamship inspection law? Fairlie's Nat. Adm., p. 240.

2. Chief provisions of the American Passenger Act of 1882? (Nav. Laws of U. S., Part IX.).

3. What are the chief provisions of the American navigation laws regulating trade with Hawaii? (Nav. Laws of U. S., Part XX.) with Porto Rico? (id. Part XXI.); with the Philippines? (id. Part XXI.); with Alaska? (id. Part XXIII.).

4. What are some of the more important laws of the United States regarding obstructions to navigation? (id. Part XXXVIII.).

5. Explain the organization of the United States Weather Bureau. In what ways is it serviceable to navigation? (Art. "Weather Bureau" in New Inter Encyc.).

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The appended list of books contains the books referred to in the body of the present work as well as, in a few cases, the names of books consulted but not directly referred to. The arrangement of the bibliographies at the end of chapters is, as far as possible, in the following order.

A. Cross references.

B. Government publications.

C. General references such as dictionaries and encyclopaedias.

D. Special references.

E. Periodical Literature.

The abbreviations used throughout the book are explained, for the most part, in the general bibliography which follows, excepting the abbreviations for court decisions, the explanation of which may be found in any dic-

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